MISSISSIPPI CODE 1972

Annotated

Highways, Bridges and Ferries

Title 65

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MISSISSIPPI CODE

1972

ANNOTATED

ADOPTED AS THE OFFICIAL CODE OF THE
STATE OF MISSISSIPPI
BY THE
1972 SESSION OF THE LEGISLATURE

VOLUME FOURTEEN

HIGHWAYS, BRIDGES AND FERRIES;
§§ 65-1-1 to 65-43-85

CONTAINING PERMANENT PUBLIC STATUTES OF MISSISSIPPI
TO THE END OF THE 2012 REGULAR LEGISLATIVE SESSION

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PREFACE

The Mississippi Code of 1972, which became effective on November 1, 1973, is the culmination of nearly four years of effort on the part of the Legislature, the Attorney General's office and the publishers, which brings together provisions of general statutory law having a common subject matter into a more orderly and logical framework of code titles and chapters, and employing a modern and effective section numbering system. A major by-product of the code revision will be the state-owned magnetic computer tape containing the Mississippi Code of 1972, which will be of invaluable assistance to the Legislature and to the state.

The enabling act for the code was a recommendation of the Mississippi State Bar, which resulted in the consideration and passage of Senate Bill 1964, Chapter 465, Laws of 1970, signed into law by Governor John Bell Williams.

The Code Committee provided for in that act was comprised of A. F. Summer, Attorney General, Heber Ladner, Secretary of State, Representative Edgar J. Stephens, Jr., Chairman, House Appropriations Committee, Senator William G. Burgin, Jr., Chairman, Senate Appropriations Committee, Representative H. L. Meredith, Jr., Chairman, House Judiciary "A" and Judiciary en banc Committees, Senator E. K. Collins, Chairman, Senate Judiciary "A" and Judiciary en banc Committees, Representative Ney McKinley Gore, Jr., Chairman, House Judiciary "B" Committee, and Senator William E. Alexander, Chairman, Senate Judiciary "B" Committee. In 1972, Representative Marby Robert Penton and Senator Herman B. Decell, Chairman of House and Senate Judiciary "B" Committees, respectively, became members of the Committee, replacing Representative Gore and Senator Collins, Senator Alexander having been appointed Chairman of Senate Judiciary "A" and Judiciary en banc Committees. The Deputy Attorney General, Delos H. Burks, served the Code Committee as Secretary. Special Assistant Attorney General Fred J. Lotterhos, under the supervision of the Attorney General, was assigned the principal responsibility for the supervision of the recodification, including the consideration and treatment of some 16,000 sections of code manuscript.

Final legislative approval was given to the Mississippi Code of 1972 by passage of Senate Bill 2034, Laws of 1972, which was signed by Governor William L. Waller on April 26, 1972. A copy of that act is set out in Volume 1, following the Publisher's Foreword.

The Code Committee is of the opinion that the recodification has been thoroughly and well accomplished, and will result in a greatly improved repository of the general statutory law of the state.

A. F. Summer
Attorney General

PREFACE

The Mississippi Code of 1972, which became effective on November 1, 1973, is the culmination of nearly four years of effort on the part of the Legislature, the Attorney General's office and the publishers, which brings together provisions of general statutory law having a common subject matter into a more orderly and logical framework of code titles and chapters, and employing a modern and effective section numbering system. A major by-product of the code revision will be the three-word magnetic computer tape containing the Mississippi Code of 1972, which will be of greatest assistance to the Legislature and to the state.

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Final legislative approval was given to the Mississippi Code of 1972 by passage of Senate Bill 2025, Laws of 1972, which was signed by Governor William L. Waller on April 26, 1972. A copy of that act is set out in Volume 1 following the Publisher's Foreword.

The Code Committee is of the opinion that the recodification has been thoroughly and well accomplished, and will result in a greatly improved repository of the general statutory law of the state.

A. F. Summer
Attorney General

PUBLISHER'S FOREWORD

This 2012 Replacement Volume 14 of the Mississippi Code of 1972 Annotated represents material appearing in both the original 1973 bound volume and the 1991 Replacement Volume 14, and the 2005 Replacement Volume 14, as well as reflecting amendments, repeals, and new Code provisions enacted by the Mississippi Legislature through the 2012 Regular Legislative Session.

This volume contains the text of Titles 65 of the Mississippi Code of 1972 Annotated, as amended through the 2012 Regular Legislative Session.

Case annotations are included based on decisions of the State and federal courts in cases arising in Mississippi. Many of these cases were decided under the former statutes in effect prior to the enactment of the Code of 1972. These earlier cases have been moved to pertinent sections of the Code where they may be useful in interpreting the current statutes. Annotations to collateral research references are also included.

To better serve our customers by making our annotations more current, LexisNexis has changed the sources that are read to create annotations for this publication. Rather than waiting for cases to appear in printed reporters, we now read court decisions as they are released by the courts. A consequence of this more current reading of cases, as they are posted online on LexisNexis, is that the most recent cases annotated may not yet have print reporter citations. These will be provided, as they become available, through later publications.

This publication contains annotations taken from decisions of the Mississippi Supreme Court and the Court of Appeals and decisions of the appropriate federal courts. These cases will be printed in the following reporters:

Southern Reporter, 3rd Series
United States Supreme Court Reports
Supreme Court Reporter
United States Supreme Court Reports, Lawyers' Edition, 2nd Series
Federal Reporter, 3rd Series
Federal Supplement, 2nd Series
Federal Rules Decisions
Bankruptcy Reporter

Additionally, annotations have been taken from the following sources:

American Law Reports, 6th Series
American Law Reports, Federal Series
Mississippi College Law Review
Mississippi Law Journal

Finally, published Opinions of the Attorney General and opinions of the Ethics Commission have been examined for annotations.

A comprehensive Index appears at the end of this volume.

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For further information or assistance, please call us toll-free at (800) 833-9844, fax us toll-free at (800) 643-1280, e-mail us at customer.support@bender.com, or write to: Mississippi Code Editor, LexisNexis, 701 E. Water St., Charlottesville, VA 22902-5389.

September 2012 LexisNexis

User's Guide

This guide is designed to help both the lawyer and the layperson get the most out of the Mississippi Code of 1972 Annotated. Information about key features of the Code and suggestions for its more effective use are given under the following headings:

- — Advance Code Service
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- — Amendment Notes
- — Analyses
- — Attorney General Opinions
- — Code Status
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If you have a question not addressed by the User's Guide, or comments about your Code service, you may contact us by calling us toll-free at (800) 833-9844, faxing us toll-free at (800) 643-1280, e-mailing us at customer.support@bender.com, or writing to Mississippi Code Editor, LexisNexis, 701 E Water Street, Charlottesville, VA 22902-5389.

ADVANCE CODE SERVICE

Three times a year, at roughly quarterly intervals between delivery of Code supplement pocket parts, we publish the Mississippi Advance Code Service pamphlets. These pamphlets contain updated statutory material and annotations to Attorney General opinions, research and practice references, and recent court decisions construing the Code. Each pamphlet is cumulative, so that each is a "one-stop" source of case notes updating those in your Code bound volumes and pocket parts.

ADVANCE SHEETS

The Advance Sheets consist of a series of pamphlets issued in the spring. The series reproduces the acts passed by the Mississippi Legislature and approved by the Governor during the legislative session. Features include tables showing the impact of legislation on sections of the Mississippi Code of 1972 Annotated, and a cumulative index. These pamphlets enable the user to receive a preview of approved legislation prior to supplement availability, and serve as an excellent source of legislative history.

AMENDMENT NOTES

Every time a Code provision is amended, we prepare a note describing the effect of the amendment. By reading the note, you can ascertain the impact of the change without having to check the former statute itself.

Amendment notes are retained in the Supplement until the bound volume is replaced, at which time notes from all but the last two years are deleted.

Amendment notes are available online from 1991 until the present in the Mississippi Legislative Archive.

ANALYSES

Each title, chapter, and article appearing in a bound volume or supplement is preceded by an analysis. The analysis details the scope of the title, chapter, and article and enables you to see at a glance the content of the title, chapter, and article without resorting to a page-by-page examination in the bound volume or supplement.

ATTORNEY GENERAL OPINIONS

Opinions of the Attorney General for the State of Mississippi have been read for constructions of Mississippi law. Notes describing the subject matter of the opinions have been placed under relevant Code provisions under the heading "Attorney General Opinions." The citation at the end of each note refers to the person requesting the opinion, the date of the opinion, and the opinion number.

CODE STATUS

The Mississippi Code of 1972 Annotated is Mississippi's official code and is considered evidence of the statute law of the State of Mississippi (see § 1-1-8). The Code was enacted by Chapter 394 of the Laws of 1972, which was signed by the Governor on April 26, 1972.

Title 1, Chapters 1 through 5 of the Code contain statutes governing the status and construction of the Code.

COMPARABLE LEGISLATION FROM OTHER STATES

Notes to comparable legislation from other states appear for uniform laws, interstate compacts, statutory provisions pertaining to reciprocity and cooperation with other states, and various important statutes of general interest. Other states' statutes that are similar in subject matter and scope to those of Mississippi are cited, generally, under the first section of the chapter or article to which they pertain. Occasionally, comparable legislation pertains to only one section, in which case it is cited under that section rather than at the chapter or article level.

See also *Federal Aspects*.

COURT RULES

The Mississippi Court Rules are published separately by LexisNexis in a fully annotated softcover volume which is replaced annually and supplemented semi-annually.

The Court Rules volume contains statewide rules of procedure of the state courts, the local rules of the United States district courts and bankruptcy courts for Mississippi, and the rules of the United States Court of Appeals for the Fifth Circuit. Rules are received from the courts and edited only for stylistic consistency. For further information, see the Preface to the Mississippi Court Rules volume.

CROSS REFERENCES

Cross references refer you to notes under other Code sections, that may affect a law or place it in context. Cross references also are used under repealed provisions to refer you to an existing law on a similar subject. Cross references do not cite all related statutes, however, since these can be identified by using the General Index.

See also *Comparable Legislation from other States* and *Federal Aspects*.

EDITOR'S NOTES

Editor's notes are notes prepared by the Publisher that contain information about important or unusual features of a law, or special circumstances surrounding passage of the law, that are not apparent from the law's text.

See also *Effective Dates*.

EFFECTIVE DATES

Absent a specific effective date provision within an act, Mississippi laws generally take effect upon approval date, which is the date the act is signed into law by the Governor. Acts affecting voting rights and procedures take effect on the date the United States Attorney General interposes no objection under § 5 of the Voting Right Act of 1965.

FEDERAL ASPECTS

Notes to federal legislation that is similar in subject matter and scope to the laws of Mississippi are referenced throughout the Code. In addition, the Code contains the United States Code Service citation for any federal law that is referred to in a Mississippi statute by its popular name or by its session law designation.

See also *Comparable Legislation from other States.*

INDEX

The Code is completely indexed in two softcover Index volumes, which are updated and replaced annually. In addition, each volume of the Code is followed by its own index. As accurate and thorough as the Index is, your best defense against index wild goose chases is familiarity with indexing techniques. To that end, an explanatory Foreword to the Index appears in the first Index volume.

JOINT LEGISLATIVE COMMITTEE NOTES

Joint Legislative Committee notes are included in the Code to describe codification decisions made by the Mississippi Joint Legislative Committee on Compilation, Revision and Publication of Legislation. Examples of Committee actions that warrant the inclusion of a note are the integration of multiple amendments to a single Code section during the same legislative session, and the correction of typographical errors appearing in the Code.

JUDICIAL DECISIONS

Every reported case from the Supreme Court of Mississippi, the Court of Appeals of Mississippi, federal district courts for Mississippi, the federal Fifth Circuit Court of Appeals and the United States Supreme Court has been read for constructions of Mississippi law. These constructions are noted under pertinent sections of the statutes or Mississippi Constitution provisions, under the heading "Judicial Decisions." Where a decision has been reviewed by a higher court, subsequent judicial history and disposition is noted in the case note if such disposition has any bearing on the annotated material. Where two or more decisions state the same rule of law, the case citations are cumulated under one case note.

Case notes are grouped together under headings called "catchlines." The catchlines identify the basic subject matter of the case notes and assist the user in locating pertinent notes. Catchlines are numbered and arranged thematically, with "In general" first. Where there are two or more catchlines, an analysis, listing all the catchlines, precedes the annotations.

Frequently, statutes carry notes to cases that arose under earlier laws on the same subject. Case notes are retained so long as the editor believes the note will have some relevance under current law, though of course the relevance may be diminished by later changes in the law. These case notes appear under the heading "Decisions under former law."

ORGANIZATION AND NUMBERING SYSTEM

The Code is organized by titles, chapters, articles, subarticles, undesignated centered headings and sections. Analyses at the beginning of each title, chapter, article, and subarticle help you understand the internal arrangement of each Code unit (see *Analyses*).

Odd numbers are generally used for the numbering of titles, chapters and sections. Even numbers have been used for some chapters and sections so that a particular new chapter or section might be logically placed with other chapters and sections dealing with the same or similar subject matter. Similarly, the use of numbers with decimal points has been used for some sections in order that they may be inserted among other sections pertaining to the same subject.

The title, chapter, and section for each Code section is revealed by its section number. Thus, in the designation "§ 1-3-65," the first digit ("1") means the provision is in Title 1 ("Laws and Statutes"); the second ("3") indicates Chapter 3 ("Construction of Statutes"); and the last two digits ("65") mean the 65th section in that chapter ("Construction of terms generally").

Articles and subarticles are not reflected by section number designations.

Within sections, subsections and paragraphs usually are designated following this pattern: (1)(a)(i)1. or (1)(a)(i)A. A distinctive indention scheme is applied to suggest the relative value of each unit within this hierarchy.

PLACEMENT OF NOTES

Where a note pertains to a single statute section, it will of course be set out following that section. In many instances, however, a note applies equally to several statute sections or to an entire chapter or article. If the pertinent sections are scattered, or few in number, the note will be duplicated for each section. But where the note applies to all or most of the sections in a chapter or article, we prevent the space-consuming repetition of notes by placing the note at the very beginning of the chapter or article.

REPLACEMENT VOLUMES

The Code is periodically updated and streamlined by the replacement of volumes. Although a current set of the Code contains all currently applicable statutes, we encourage you to retain replaced volumes and their supplement pockets parts for historical reference.

RESEARCH AND PRACTICE REFERENCES

Citations to references in American Jurisprudence, American Jurisprudence Pleading and Practice, American Jurisprudence Proof of Facts, American Jurisprudence Trials, American Law Reports, First through Sixth Series, ALR Federal, Corpus Juris Secundum, various other treatises and practice guides, and Mississippi law journals are given under this heading, wherever the references appear to discuss the statute under which the citation appears, or a topic related to the statute. These citations are intended only to give you a starting point for your library research. The Mississippi law journals include Mississippi Law Journal and Mississippi College Law Review.

SOURCE NOTES

Each section of the Code is followed by a brief note showing the acts of the legislature on which it is based, including the act that originally enacted the section and any subsequent amendments.

The source note follows the section text, preceding any other annotations for the section. Information in the source note is listed in chronological order, with the most recent information listed last. If a section has been renumbered, the former number will appear in the source note. :

The tables volume should also be consulted when researching the history of a statutory section, since it contains cross reference tables that provide a statutory citation for each section of the session laws and the date each act went into effect.

STATUTE HEADINGS

Headings or "catchlines" for Code sections and subsections are generally created and maintained by the publisher. They are mere catchwords and are not to be deemed or taken as the official title of a section or as a part of the section. Your suggestions for the improvement of particular catchlines are invited.

TABLES

The Mississippi Code of 1972 Annotated contains several tables that can assist you in your research. These are published in the Statutory Tables volume of the Code, and include the following:

- Sections of the Code of 1930 carried into the Code of 1942.
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- Allocation of Acts of Legislature, 1931 — 1972.
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§ 65-1-1. Definitions.

When used in this chapter and for the purposes of Sections 65-1-1 through 65-1-21, the following words shall have the meanings ascribed herein unless the context otherwise requires:

(a) "Department" means the Mississippi Department of Transportation. Whenever the term "Mississippi State Highway Department," or the word "department" meaning the Mississippi State Highway Department, appears in the laws of the State of Mississippi, it shall mean the "Mississippi Department of Transportation."

(b) "Office" means an administrative subdivision of the department.

(c) "Bureau" means an administrative subdivision of an office.

(d) "Commission" means the Mississippi Transportation Commission. Whenever the term "Mississippi State Highway Commission," or the word "commission" meaning the Mississippi State Highway Commission, appears in the laws of the State of Mississippi, it shall mean the Mississippi Transportation Commission.

(e) "Executive Director" means the chief administrative officer of the department. Whenever the term "director," meaning the Chief Administrative Officer of the State Highway Department, appears in the laws of the State of Mississippi, it shall mean the Executive Director of the Mississippi Department of Transportation.

(f) "Director" means the chief officer of an office.

(g) "Administrator" means the chief officer of a bureau.

(h) "Highway" or "road" includes rights-of-way, bridge and drainage structures, signs, guardrails and other structures made in connection with such highway or road.

(i) "Construction" includes reconstruction.

(j) "Maintenance" means the constant maintenance and repair to preserve a smooth surfaced highway.

(k) "Pave" means to construct with a surface of either high-type or intermediate-type pavement.

SOURCES: Codes, 1930, § 5021; 1942, § 8053; Laws, 1930, ch. 47; Laws, 1948, ch. 332, § 30; Laws, 1992, ch. 496, § 1, eff from and after July 1, 1992.

JUDICIAL DECISIONS

1. In general.

State Highway Commission is alter ego of state and is entitled to share in Eleventh Amendment immunity from suit. Brady v. Michelin Reifenwerke, 613 F. Supp. 1076 (S.D. Miss. 1985).

RESEARCH REFERENCES

ALR. Governmental tort liability as to highway median barriers. 58 A.L.R.4th 559.

Am Jur. 39 Am. Jur. 2d, Highways, Streets, and Bridges, §§ 1-11.

CJS. 39A C.J.S., Highways § 1.

§ 65-1-2. Mississippi Department of Transportation.

(1) There is hereby created the Mississippi Department of Transportation, which shall include the following offices:

(a) Office of Administrative Services.

(b) Office of Highways.

(c) Office of State Aid Road Construction.

(d) Office of Intermodal Planning.

(e) Office of Enforcement.

(2) Each office shall be composed of such bureaus as deemed necessary by the executive director of the department.

(3) The department is designated as the single state agency to receive and expend any funds made available by the United States Department of Transportation or any agency of the federal government for transportation purposes and to cooperate with federal, state, interstate and local agencies, organizations and persons performing activities relating to transportation. This subsection shall not apply to motor carrier safety assistance program funds made available by the federal government to the Public Service Commission.

(4) The powers, duties and responsibilities of the State Highway Department with respect to the construction and maintenance of the state highway system are transferred to the Mississippi Department of Transportation.

(5) The powers, duties and responsibilities of the Department of Economic and Community Development with respect to aeronautics are transferred to the Mississippi Department of Transportation.

(6) The powers, duties and responsibilities of the State Tax Commission with respect to the weighing of motor vehicles along the highways of this state at inspection stations and by means of portable scales are transferred to the Mississippi Department of Transportation.

(7) The powers, duties and responsibilities of the Department of Economic and Community Development with respect to transportation matters, except

with respect to ports, are transferred to the Mississippi Department of Transportation.

(8) The powers, duties and responsibilities of the State Aid Engineer and the Office of State Aid Road Construction are transferred to the Mississippi Department of Transportation.

(9) All powers, duties and responsibilities of the Public Service Commission with regard to railroads, except rate-making authority, are transferred to the Mississippi Department of Transportation. The Mississippi Transportation Commission may perform any act and issue any rule, regulation or order which the commission is permitted to do by the Federal Railroad Safety Act of 1970 (45 USCS et seq.). A copy of any new rule, regulation or order passed by the Mississippi Transportation Commission shall be furnished to members of the Transportation Committees of the Mississippi House of Representatives and the Mississippi Senate. Individuals, corporations or companies affected by the order, rule or regulation shall be notified in accordance with the Mississippi Administrative Procedures Law.

(10) All records, personnel, property and unexpended balances of appropriations, allocation or other funds of all those agencies, boards, commissions, departments, offices, bureaus and divisions that are transferred by Chapter 496, Laws, 1992, shall be transferred to the Mississippi Department of Transportation. The transfer of segregated or special funds shall be made in such a manner that the relation between program and revenue source as provided by law shall be retained.

(11) From and after January 1, 1993, and until January 1, 1994, the Mississippi Department of Transportation and the Mississippi Transportation Commission shall be exempt from State Personnel Board procedures for the purpose of the employment, promotion, realignment, demotion, reprimand, suspension, termination, reallocation, reassignment, transfer, moving or relocation of personnel of all those agencies, boards, commissions, departments, offices, bureaus and divisions whose duties and responsibilities are transferred by Chapter 496, Laws, 1992, to the Mississippi Department of Transportation.

SOURCES: Laws, 1992, ch. 496, § 2; Laws, 1994, ch. 411, § 1; Laws, 1997, ch. 500, § 1, eff from and after passage (approved March 31, 1997).

Editor's Note — Laws, 2005, 5th Ex Sess, ch. 24, § 8, provides:

"SECTION 8. The Mississippi Department of Transportation is authorized to perform a study of the feasibility of constructing and operating a monorail transportation system on and along the Mississippi Gulf Coast, and is authorized to escalate its budget and expend any funds received by or made available to the department not to exceed Seven Hundred Fifty Thousand Dollars ($750,000.00) to defray the expenses of performing the study."

Laws of 2007, ch. 580, § 5 provides as follows:

"SECTION 5. The Mississippi Department of Transportation and the Mississippi Development Authority are directed to work with the Mississippi congressional delegation to determine the feasibility of designating U.S. 45-A as an interstate highway through Lee, Monroe, Chickasaw, Clay and Lowndes Counties."

Laws of 2010, ch. 468, § 1, as amended by Laws of 2012, ch. 362, § 1 effective April 17, 2012, provides:

"SECTION 1. (1) There is created the Public Transit Task Force to study and make recommendations with regard to present and future needs of public transportation in Mississippi. The task force shall make a report of its findings and recommendations to the Legislature during the 2012 and 2013 Regular Legislative Sessions.

"(2) The task force shall be composed of the following members:

"(a) The Chairman of the House Transportation Committee;

"(b) The Chairman of the Senate Highways and Transportation Committee;

"(c) One (1) member of the House appointed by the Chairman of the House Transportation Committee;

"(d) One (1) member of the Senate appointed by the Chairman of the Senate Highways and Transportation Committee;

"(e) Two (2) members of the Mississippi Public Transportation Association appointed by the association's executive director;

"(f) The Director of the Public Transit Division of the Mississippi Department of Transportation;

"(g) The Executive Director of the Mississippi Development Authority, or his designee;

"(h) The Executive Director of the Southern High-Speed Rail Commission, or his designee;

"(i) Three (3) persons appointed by the Governor, one (1) from a consumer advisory group composed of citizens who use that public transit on a regular basis, one (1) from the Mississippi State University department; or disciplines that study public transportation; and one (1) who represents either a metropolitan planning organization or a planning and development district; and

"(j) One (1) member appointed by the AARP.

"(3) Appointments shall be made within thirty (30) days after the effective date of this act, and, within fifteen (15) days thereafter on a day to be designated jointly by the Chair of the House Transportation Committee and the Chair of the Senate Highways and Transportation Committee, the task force shall meet and organize by selecting from its membership a chairman and a vice chairman. The vice chairman shall also serve as secretary and shall be responsible for keeping all records of the task force. A majority of the members of the task force shall constitute a quorum. In the selection of its officers and the adoption of rules, resolutions and reports, an affirmative vote of a majority of the task force shall be required. All members shall be notified in writing of all meetings, such notices to be electronically transmitted or mailed at least seven (7) days before the date on which a meeting is to be held.

"(4) The task force shall be assisted by administrative and legal staff members of the Legislature and any other staff assistance requested of the Mississippi Department of Transportation and the Mississippi Development Authority. To effectuate the purposes of this section, any department, division, board, bureau, commission or agency of the state or of any political subdivision thereof, at the request of the chairman of the task force, shall provide to the task force such facilities, assistance and data as will enable the task force properly to carry out its duties.

Laws of 2010, ch. 468 § 2, effective April 1, 2010, provides:

"SECTION 2. In order to carry out the functions and responsibilities necessary to study and make recommendations to the Legislature, the Public Transit Task Force shall:

"(a) Form task force committees based on specific areas of expertise to study the present statewide passenger transit system and infrastructure, including rail and all other forms of public transportation, and to make recommendations for its future construction, rehabilitation, maintenance and improvement, with an emphasis on passenger service areas that are both intercity and within cities.

"(b) Review and consider coordinated transportation plans and related studies done by or through existing state agencies and advisory, policy or research organizations, including the passenger component of the State Rail Plan described in Section 57-43-1.

"(c) Review and consider statewide and regional planning initiatives related to transportation for disadvantaged persons.

"(d) Consider efforts of stakeholder groups to comply with federal requirements for coordinated planning and passenger service delivery."

Laws of 2010, ch. 441, § 1 provides:

"SECTION 1. (1) The Mississippi Department of Finance and Administration is authorized to transfer at no cost state-owned real property, located on North West Street, Jackson, Mississippi, to the Mississippi Transportation Commission for use by the Mississippi Department of Transportation, being more particularly described as follows:

> "Starting at a concrete monument that is the point of intersection of the north line of Woodrow Wilson Avenue and the west line of North West Street, as said avenue and street are now laid out and improved in the City of Jackson, Hinds County, Mississippi; run thence North 00 degrees 05 minutes West along the west line of North West Street for a distance of 1519.80 feet to the point of beginning.
>
> "Run thence North 00 degrees 05 minutes West along said west line of North West Street for a distance of 161.10 feet to a concrete monument that is the southeast corner of the Mississippi State Highway Department shop site; run thence North 89 degrees 30 minutes West along the south line of said Mississippi State Highway Department shop site for a distance of 443.00 feet to a point; run thence South 00 degrees 05 minutes East for a distance of 161.10 feet to a point; run thence South 89 degrees 30 minutes East for a distance of 443.00 feet to the point of beginning.
>
> "All of the above described land being situated in the Northwest ¼ of the Southeast ¼ of Section 27, Township 6 North, Range 1 East, in the First Judicial District of Hinds County, Mississippi, and being wholly within the corporate limits of the City of Jackson and containing 1.638 acres.

"(2) The conveyance authorized in this section may be subject to terms and conditions accepted and agreed upon by the Mississippi Department of Finance and Administration and the Mississippi Transportation Commission.

"(3) Mississippi State University and the Board of Trustees of State Institutions of Higher Learning are authorized to remove any and all real or personal property associated with the property described in subsection (1) from the inventory records of the university."

Cross References — "Mississippi State Highway Commission" as meaning Mississippi Transportation Commission, see § 65-1-1.

Chief Administrative Officer of the State Highway Department as meaning Executive Director of the Mississippi Department of Transportation, see § 65-1-1.

Federal Aspects — United States Department of Transportation, see generally 49 USCS §§ 101 et seq.

The "Federal Railroad Safety Act of 1970" (45 USCS et seq.), referred to in (9), has been repealed. For current provisions, see 49 USCS §§ 20101.

JUDICIAL DECISIONS

1. Liability for torts.

Mississippi Department of Transportation met the definition of an agency of the state that could be held potentially liable in tort as an arm of the state to personal injury plaintiffs under the Mississippi Tort Claims Act, Miss. Code Ann. § 11-46-1 et seq. Johnson v. James Constr. Group, LLC, 306 F. Supp. 2d 654 (S.D. Miss. 2004).

ATTORNEY GENERAL OPINIONS

The Mississippi Transportation Commission may acquire by condemnation land or other property of railroads for the construction and maintenance of state highways when a negotiated purchase of the interests cannot be arranged pursuant to its eminent domain authority. Warren, June 23, 2000, A.G. Op. #2000-0290.

The Mississippi Transportation Commission through the use of its regulatory power may require the relocation or abandonment of a railcar storage facility for the purpose of ensuring public safety upon payment of reasonable compensation. Warren, June 23, 2000, A.G. Op. #2000-0290.

The Mississippi Transportation Commission could enter into an agreement with a railroad in which the Mississippi Department of Transportation would pay the railroad reasonable consideration to remove and relocate approximately 9,000 to 11,000 feet of railroad track in a particular tract. Warren, June 23, 2000, A.G. Op. #2000-0290.

The Department of Transportation may use and supervise the Office of State Aid and the State Aid Engineer in the construction of a project to extend a non-state-aid road that is part of the state highway system. Kirk, Mar. 9, 2001, A.G. Op. #01-0075.

§ 65-1-3. Mississippi Transportation Commission.

There shall be a State Highway Commission which shall consist of three (3) members, one (1) from each of the three (3) Supreme Court districts of the state. Only qualified electors who are citizens of the Supreme Court district in which he or she offers for election shall be eligible for such office.

On Tuesday after the first Monday in November of the year 1951, and every four (4) years thereafter, state highway commissioners shall be elected at the same time and in the same manner as the Governor is chosen; and the laws governing primary elections and the holding of general elections in this state shall apply to and govern the nomination and election of state highway commissioners. The state highway commissioners so elected shall enter upon the discharge of the duties of their respective offices on the first Monday of January in the year next succeeding the date of their election, and they shall serve for a term of four (4) years and until their successors shall have been duly elected and qualified.

If any one or more of the state highway commissioners elected under the provisions of this chapter shall die, resign or be removed from office, the Governor shall fill the vacancy by appointment for the unexpired term, provided such unexpired term shall not exceed twelve (12) months. If such unexpired term shall exceed twelve (12) months, the Governor shall, within fifteen (15) days from the date of such vacancy, by proclamation duly made, call an election in the Supreme Court district in which such vacancy exists, to be held within sixty (60) days from the date of the issuance of such proclamation, at which election a state highway commissioner shall be elected to fill such vacancy for the remaining portion of such unexpired term. Such special election shall be held in the manner provided for holding general elections in this state, as far as practicable.

Each of said state highway commissioners, before entering upon the discharge of the duties of his office, shall take and subscribe the oath of office required of other state officials and shall execute bond in the sum of Fifty Thousand Dollars ($50,000.00), with some surety company authorized to do business in this state as surety, conditioned for the faithful performance of the duties of his office and for the faithful and true accounting of all funds or monies or property coming into his hands by virtue of his office, and conditioned further that all such funds, monies and property will be expended and used by him only for purposes authorized by law, said bond to be approved by the Governor or Attorney General and to be filed in the office of the Secretary of State. The premium on such bonds shall be paid out of the funds of the Mississippi Department of Transportation.

From and after July 1, 1992, the State Highway Commission shall be the Mississippi Transportation Commission and the members thereof shall be the Mississippi transportation commissioners.

SOURCES: Codes, 1930, § 4989; 1942, § 8014; Laws, 1930, ch. 47; Laws, 1936, ch. 200; Laws, 1948, ch. 332, § 1; Laws, 1992, ch. 496, § 3, eff from and after July 1, 1992.

Cross References — Appointment of assistant attorneys general, to handle legal affairs of transportation commission, see § 7-5-13.

Provision that three transportation commissioners shall be elected in 1987 and every four years thereafter, see § 23-15-193.

Nominations for state, district, county, and county district offices which are elective, see §§ 23-15-291 et seq.

Provisions prohibiting the Mississippi Transportation Commission or members thereof from employing excess numbers of highway workers during certain months in years in which a general primary election is to be held, and prohibiting excessive expenditures during those months, see § 23-15-881.

Vacancy in elective or appointive office upon failure of officer to qualify, see § 25-1-7.

Oath of office of public officers, see §§ 25-1-9, 25-1-11.

Vacancy created by removal of public officer from office, see § 25-1-59.

Compensation of transportation commission, see § 25-3-31.

Removal of public officers from office, see § 25-5-1.

Surface mining and reclamation of land, see §§ 53-7-1 et seq.

Additional bonds required of the commissioners and director, see § 65-1-151.

JUDICIAL DECISIONS

1.-5. [Reserved for future use.]
6. Under former law.

1.-5. [Reserved for future use.]

6. Under former law.

Injunction restraining Highway Commission from putting bridge across canal with piers so placed as to obstruct free flow of water was proper. Mississippi State Hwy. Comm'n v. Yellow Creek Drainage Dist., 181 Miss. 651, 180 So. 749 (1938).

Highway commission is an agency of the State. Mississippi State Hwy. Comm'n v. Yellow Creek Drainage Dist., 181 Miss. 651, 180 So. 749 (1938).

State highway commission was not liable for negligence of its engineers in so constructing ditches on sides of highway as to cause water of creek to overflow owners' farm lands. State Hwy. Comm'n v. Knight, 170 Miss. 60, 154 So. 263 (1934).

Statutory provision as to election of highway commissioners, if invalid, is inseparable from other provisions. Trahan v. State Hwy. Comm'n, 169 Miss. 732, 151 So. 178 (1933).

RESEARCH REFERENCES

Am Jur. 39 Am. Jur. 2d, Highways, Streets, and Bridges §§ 12 et seq.

CJS. 39A C.J.S., Highways §§ 155 et seq.

§ 65-1-5. Organization and meetings.

When the transportation commissioners enter upon the duties of their office, the Transportation Commission shall meet and organize by the election of one (1) of its members to serve as chairman of the commission for the four-year term for which the commissioner shall have been elected. The commission, a majority of which shall constitute a quorum, shall meet in regular session on the second Tuesday of each month at the office of the commission in Jackson, Mississippi; however, the commission may meet in regular session not more than three (3) times each year at such other location as may be set by the commission. At such regular sessions the commission may hear, continue and determine any and all matters coming before it. The commission may hold special sessions at the call of the executive director or the chairman at such times and places in this state as either of them may deem necessary. At such special sessions it may hear, continue, consider and determine any and all matters coming before it, provided that at least five (5) days' notice of such meetings shall be given to all the members of the commission beforehand. A special session may be called at any time without the foregoing notice, or any notice, if by and with the unanimous consent of all the members of the commission, but such unanimous consent shall be spread at large on the minutes of the commission. If any session is held at a location other than at the commission's office in Jackson, Mississippi, the commission shall make provisions to allow public participation in the meeting by appearing at the Jackson office.

The Mississippi Transportation Commission shall act as a legal entity, and shall only speak through its minutes, and in all matters shall act as a unit. Any action on the part of any member of the commission separately shall not bind the commission as a unit, but such individual member only shall be liable personally on his official bond.

The Mississippi Transportation Commission shall be a body corporate and as such may sue and be sued, plead and be impleaded, in any court of justice having jurisdiction of the subject matter of any such suit. In any suit against the Mississippi Transportation Commission service of process shall be had by serving the secretary of the commission with such process; and a copy of the declaration, petition or bill of complaint, or other initial pleading shall be handed the secretary along with the process.

SOURCES: Codes, 1930, § 4993; 1942, § 8018; Laws, 1930, ch. 47; Laws, 1948, ch. 332, § 5; Laws, 1992, ch. 496, § 4; Laws, 2004, ch. 337, § 1, eff from and after passage (approved Apr. 19, 2004.)

Amendment Notes — The 2004 amendment, in the first paragraph, added "however the commission may meet in regular session not more than three (3) times each year at such other location as may be set by the commission" at the end of the second sentence, and added the last sentence.

JUDICIAL DECISIONS

1. In general.

The statute is mandatory rather than merely directory. Ronald Adams Contractor, Inc. v. Mississippi Transp. Comm'n, 777 So. 2d 649 (Miss. 2000).

The portion of § 65-1-5, providing that the Mississippi Transportation Commission "may sue or be sued," was enacted in 1992 and became effective from and after July 1, 1992, and thus was not applicable to a tort action arising out of an automobile collision which occurred on April 4, 1991. Wesley v. Mississippi Transp. Comm'n, 857 F. Supp. 523 (S.D. Miss. 1994).

The execution of a warranty deed and its delivery to the chief negotiator for the state highway commission did not constitute a consummation of the sale and purchase until the action had been accepted by the commission, which cannot be bound absent affirmative action taken by appropriate entry on its minutes. Mississippi State Hwy. Comm'n v. Sanders, 269 So. 2d 350 (Miss. 1972).

§ 65-1-7. Compensation of the commissioners.

The three (3) commissioners chosen as herein provided, and their successors, shall each receive as compensation for their services salaries fixed by the Legislature, and in addition shall be allowed all of their actual and necessary traveling and other expenses incurred in the performance of their respective official duties.

SOURCES: Codes, 1930, § 4994; 1942, § 8019; Laws, 1930, ch. 47; Laws, 1932, ch. 133; Laws, 1948, ch. 332, § 6; Laws, 1952, ch. 335, § 4; Laws, 1958, ch. 336; Laws, 1966, ch. 445; Laws, 1974, ch. 402, eff from and after passage (approved March 25, 1974).

Cross References — Salaries of commissioners, see also § 25-3-31.

§ 65-1-8. Authority and powers of the commission.

(1) The Mississippi Transportation Commission shall have the following general powers, duties and responsibilities:

(a) To coordinate and develop a comprehensive, balanced transportation policy for the State of Mississippi;

(b) To promote the coordinated and efficient use of all available and future modes of transportation;

(c) To make recommendations to the Legislature regarding alterations or modifications in any existing transportation policies;

(d) To study means of encouraging travel and transportation of goods by the combination of motor vehicle and other modes of transportation;

(e) To take such actions as are necessary and proper to discharge its duties pursuant to the provisions of Chapter 496, Laws, 1992, and any other provision of law;

(f) To receive and provide for the expenditure of any funds made available to it by the Legislature, the federal government or any other source.

(2) In addition to the general powers, duties and responsibilities listed in subsection (1) of this section, the Mississippi Transportation Commission shall have the following specific powers:

(a) To make rules and regulations whereby the Transportation Department shall change or relocate any and all highways herein or hereafter fixed as constituting a part of the state highway system, as may be deemed necessary or economical in the construction or maintenance thereof; to acquire by gift, purchase, condemnation or otherwise, land or other property whatsoever that may be necessary for a state highway system as herein provided, with full consideration to be given to the stimulation of local public and private investment when acquiring such property in the vicinity of Mississippi towns, cities and population centers;

(b) To enforce by mandamus, or other proper legal remedies, all legal rights or rights of action of the Mississippi Transportation Commission with other public bodies, corporations or persons;

(c) To make and publish rules, regulations and ordinances for the control of and the policing of the traffic on the state highways, and to prevent their abuse by any or all persons, natural or artificial, by trucks, tractors, trailers or any other heavy or destructive vehicles or machines, or by any other means whatsoever, by establishing weights of loads or of vehicles, types of tires, width of tire surfaces, length and width of vehicles, with reasonable variations to meet approximate weather conditions, and all other proper police and protective regulations, and to provide ample means for the enforcement of same. The violation of any of the rules, regulations or ordinances so prescribed by the commission shall constitute a misdemeanor. No rule, regulation or ordinance shall be made that conflicts with any statute now in force or which may hereafter be enacted, or with any ordinance of municipalities. A monthly publication giving general information to the boards of supervisors, employees and the public may be issued under such rules and regulations as the commission may determine;

(d) To give suitable numbers to highways and to change the number of any highway that shall become a part of the state highway system. However, nothing herein shall authorize the number of any highway to be changed so as to conflict with any designation thereof as a U.S. numbered highway. Where, by a specific act of the Legislature, the commission has been directed to give a certain number to a highway, the commission shall not have the authority to change such number;

(e)(i) To make proper and reasonable rules, regulations, and ordinances for the placing, erection, removal or relocation of telephone, telegraph or other poles, signboards, fences, gas, water, sewerage, oil or other pipelines, and other obstructions that may, in the opinion of the commission, contribute to the hazards upon any of the state highways, or in any way interfere with the ordinary travel upon such highways, or the construction, reconstruction or maintenance thereof, and to make reasonable rules and regulations for the proper control thereof. Any violation of such rules or regulations or noncompliance with such ordinances shall constitute a misdemeanor;

(ii) Except as otherwise provided for in this paragraph, whenever the order of the commission shall require the removal of, or other changes in the location of telephone, telegraph or other poles, signboards, gas, water, sewerage, oil or other pipelines; or other similar obstructions on the right-of-way or such other places where removal is required by law, the owners thereof shall at their own expense move or change the same to conform to the order of the commission. Any violation of such rules or regulations or noncompliance with such orders shall constitute a misdemeanor;

(iii) Rural water districts, rural water systems, nonprofit water associations and municipal public water systems in municipalities with a population of ten thousand (10,000) or less, according to the latest federal decennial census, shall not be required to bear the cost and expense of removal and relocation of water and sewer lines and facilities constructed or in place in the rights-of-way of state highways. The cost and expense of such removal and relocation, including any unpaid prior to July 1, 2002, shall be paid by the Department of Transportation;

(iv) Municipal public sewer systems and municipal gas systems owned by municipalities with a population of ten thousand (10,000) or less, according to the latest federal decennial census, shall not be required to bear the cost and expense of removal and relocation of lines and facilities constructed or in place in the rights-of-way of state highways. The cost and expense of such removal and relocation, including any unpaid prior to July 1, 2003, shall be paid by the Department of Transportation;

(f) To regulate and abandon grade crossings on any road fixed as a part of the state highway system, and whenever the commission, in order to avoid a grade crossing with the railroad, locates or constructs said road on one side of the railroad, the commission shall have the power to abandon and close such grade crossing, and whenever an underpass or overhead bridge is substituted for a grade crossing, the commission shall have power to abandon such grade crossing and any other crossing adjacent thereto. Included in the powers herein granted shall be the power to require the railroad at grade crossings, where any road of the state highway system crosses the same, to place signal posts with lights or other warning devices at such crossings at the expense of the railroad, and to regulate and abandon underpass or overhead bridges and, where abandoned because of the construction of a new underpass or overhead bridge, to close such old underpass or overhead bridge, or, in its discretion, to return the same to the jurisdiction of the county board of supervisors;

(g) To make proper and reasonable rules and regulations to control the cutting or opening of the road surfaces for subsurface installations;

(h) To make proper and reasonable rules and regulations for the removal from the public rights-of-way of any form of obstruction, to cooperate in improving their appearance, and to prescribe minimum clearance heights for seed conveyors, pipes, passageways or other structure of private or other ownership above the highways;

(i) To establish, and have the Transportation Department maintain and operate, and to cooperate with the state educational institutions in establishing, enlarging, maintaining and operating a laboratory or laboratories for testing materials and for other proper highway purposes;

(j) To provide, under the direction and with the approval of the Department of Finance and Administration, suitable offices, shops and barns in the City of Jackson;

(k) To establish and have enforced set-back regulations;

(*l*) To cooperate with proper state authorities in producing limerock for highway purposes and to purchase same at cost;

(m) To provide for the purchase of necessary equipment and vehicles and to provide for the repair and housing of same, to acquire by gift, purchase, condemnation or otherwise, land or lands and buildings in fee simple, and to authorize the Transportation Department to construct, lease or otherwise provide necessary and proper permanent district offices for the construction and maintenance divisions of the department, and for the repair and housing of the equipment and vehicles of the department; however, in each Supreme Court district only two (2) permanent district offices shall be set up, but a permanent status shall not be given to any such offices until so provided by act of the Legislature and in the meantime, all shops of the department shall be retained at their present location. As many local or subdistrict offices, shops or barns may be provided as is essential and proper to economical maintenance of the state highway system;

(n) To cooperate with the Department of Archives and History in having placed and maintained suitable historical markers, including those which have been approved and purchased by the State Historical Commission, along state highways, and to have constructed and maintained roadside driveways for convenience and safety in viewing them when necessary;

(o) To cooperate, in its discretion, with the Mississippi Department of Wildlife, Fisheries and Parks in planning and constructing roadside parks upon the right-of-way of state highways, whether constructed, under construction, or planned; said parks to utilize where practical barrow pits used in construction of state highways for use as fishing ponds. Said parks shall be named for abundant flora and fauna existing in the area or for the first flora or fauna found on the site;

(p) Unless otherwise prohibited by law, to make such contracts and execute such instruments containing such reasonable and necessary appropriate terms, provisions and conditions as in its absolute discretion it may deem necessary, proper or advisable, for the purpose of obtaining or securing financial assistance, grants or loans from the United States of America or any department or agency thereof, including contracts with several counties of the state pertaining to the expenditure of such funds;

(q) To cooperate with the Federal Highway Administration in the matter of location, construction and maintenance of the Great River Road, to expend such funds paid to the commission by the Federal Highway Administration or other federal agency, and to authorize the Transportation

Department to erect suitable signs marking this highway, the cost of such signs to be paid from state highway funds other than earmarked construction funds;

(r) To cooperate, in its discretion, with the Mississippi Forestry Commission and the School of Forestry, Mississippi State University, in a forestry management program, including planting, thinning, cutting and selling, upon the right-of-way of any highway, constructed, acquired or maintained by the Transportation Department, and to sell and dispose of any and all growing timber standing, lying or being on any right-of-way acquired by the commission for highway purposes in the future; such sale or sales to be made in accordance with the sale of personal property which has become unnecessary for public use as provided for in Section 65-1-123, Mississippi Code of 1972;

(s) To expend funds in cooperation with the Division of Plant Industry, Mississippi Department of Agriculture and Commerce, the United States government or any department or agency thereof, or with any department or agency of this state, to control, suppress or eradicate serious insect pests, rodents, plant parasites and plant diseases on the state highway rights-of-way;

(t) To provide for the placement, erection and maintenance of motorist services business signs and supports within state highway rights-of-way in accordance with current state and federal laws and regulations governing the placement of traffic control devices on state highways, and to establish and collect reasonable fees from the businesses having information on such signs;

(u) To request and to accept the use of persons convicted of an offense, whether a felony or a misdemeanor, for work on any road construction, repair or other project of the Transportation Department. The commission is also authorized to request and to accept the use of persons who have not been convicted of an offense but who are required to fulfill certain court-imposed conditions pursuant to Section 41-29-150(d)(1) or 99-15-26, Mississippi Code of 1972, or the Pretrial Intervention Act, being Sections 99-15-101 through 99-15-127, Mississippi Code of 1972. The commission is authorized to enter into any agreements with the Department of Corrections, the State Parole Board, any criminal court of this state, and any other proper official regarding the working, guarding, safekeeping, clothing and subsistence of such persons performing work for the Transportation Department. Such persons shall not be deemed agents, employees or involuntary servants of the Transportation Department while performing such work or while going to and from work or other specified areas;

(v) To provide for the administration of the railroad revitalization program pursuant to Section 57-43-1 et seq.;

(w) The Mississippi Transportation Commission is further authorized, in its discretion, to expend funds for the purchase of service pins for employees of the Mississippi Transportation Department;

(x) To cooperate with the State Tax Commission by providing for weight enforcement field personnel to collect and assess taxes, fees and penalties and to perform all duties as required pursuant to Section 27-55-501 et seq., Sections 27-19-1 et seq., 27-55-1 et seq., 27-59-1 et seq. and 27-61-1 et seq., Mississippi Code of 1972, with regard to vehicles subject to the jurisdiction of the Office of Weight Enforcement. All collections and assessments shall be transferred daily to the State Tax Commission;

(y) The Mississippi Transportation Commission may delegate the authority to enter into a supplemental agreement to a contract previously approved by the commission if the supplemental agreement involves an additional expenditure not to exceed One Hundred Thousand Dollars ($100,000.00);

(z)(i) The Mississippi Transportation Commission, in its discretion, may enter into agreements with any county, municipality, county transportation commission, business, corporation, partnership, association, individual or other legal entity, for the purpose of accelerating the completion date of scheduled highway construction projects.

(ii) Such an agreement may permit the cost of a highway construction project to be advanced to the commission by a county, municipality, county transportation commission, business, corporation, partnership, association, individual or other legal entity, and repaid to such entity by the commission when highway construction funds become available; provided, however, that repayment of funds advanced to the Mississippi Transportation Commission shall be made no sooner than the commission's identified projected revenue schedule for funding of that particular construction project, and no other scheduled highway construction project established by statute or by the commission may be delayed by an advanced funding project authorized under this paragraph (z). Repayments to a private entity that advances funds to the Mississippi Transportation Commission under this paragraph (z) may not include interest or other fees or charges, and the total amount repaid shall not exceed the total amount of funds advanced to the commission by the entity.

(iii) In considering whether to enter into such an agreement, the commission shall consider the availability of financial resources, the effect of such agreement on other ongoing highway construction, the urgency of the public's need for swift completion of the project and any other relevant factors.

(iv) Such an agreement shall be executed only upon a finding by the commission, spread upon its minutes, that the acceleration of the scheduled project is both feasible and beneficial. The commission shall also spread upon its minutes its findings with regard to the factors required to be considered pursuant to item (iii) of this paragraph (z);

(aa) The Mississippi Transportation Commission, in its discretion, may purchase employment practices liability insurance, and may purchase an excess policy to cover catastrophic losses incurred under the commission's self-insured workers' compensation program authorized under Section 71-3-5. Such policies shall be written by the agent or agents of a company or companies authorized to do business in the State of Mississippi. The deductibles shall be in an amount deemed reasonable and prudent by the commission, and the premiums thereon shall be paid from the State Highway Fund. Purchase of insurance under this paragraph shall not serve as an actual or implied waiver of sovereign immunity or of any protection afforded the commission under the Mississippi Tort Claims Act;

(bb) The Mississippi Transportation Commission is further authorized, in its discretion, to expend funds for the purchase of promotional materials for safety purposes, highway beautification purposes and recruitment purposes;

(cc) To lease antenna space on communication towers which it owns.

SOURCES: Laws, 1981, ch. 464, § 2; Laws, 1983, ch. 395, § 1; Laws, 1984, ch. 305, § 2; Laws, 1984, ch. 495, § 32; Laws, 1985, ch. 474, § 55; Laws, 1986, ch. 438, § 46; Laws, 1987, ch. 483, § 47; Laws, 1988, ch. 442, § 44; Laws, 1989, ch. 537, § 42; Laws, 1990, ch. 377, § 1; Laws, 1990, ch. 518, § 43; Laws, 1991, ch. 530, § 9; Laws, 1991, ch. 618, § 43; Laws, 1992, ch. 491 § 45; Laws, 1992, ch. 496, § 5; Laws, 1994, ch. 491, § 1; Laws, 1999, ch. 461, § 45; Laws, 2000, ch. 474, § 1; Laws, 2002, ch. 325 , § 1; Laws, 2002, ch. 556, § 6; Laws, 2003, ch. 354, § 1; Laws, 2003, ch. 457, § 1; Laws, 2003, ch. 463, § 1; Laws, 2003, ch. 564, § 2; Laws, 2004, ch. 562, § 3; Laws, 2005, ch. 306, § 1, eff from and after July 1, 2005.

Joint Legislative Committee Note — Section 1 of ch. 325, Laws, 2002, effective from and after July 1, 2002 (approved March 18, 2002), amended this section. Section 6 of ch. 556, Laws, 2002, effective from and after July 1, 2002 (approved April 10, 2002), also amended this section. As set out above, this section reflects the language of Section 6 of ch. 556, Laws, 2002, pursuant to Section 1-3-79 which provides that whenever the same section of law is amended by different bills during the same legislative session, and the effective dates of the amendments are the same, the amendment with the latest effective date shall supersede all other amendments to the same section approved on an earlier date.

Section 1 of ch. 457, Laws, 2003, effective from and after March 23, 2003, amended this section. Section 1 of ch. 354, Laws, 2003, effective from and after July 1, 2003 (approved March 12, 2003), also amended this section. Section 1 of ch. 463, Laws, 2003, effective from and after July 1, 2003 (approved March 23, 2003), also amended this section. Section 2 of ch. 564, Laws, 2003, effective from and after July 1, 2003 (approved April 24, 2003), also amended this section. As set out above, this section reflects the language of Section 2 of ch. 564, Laws, 2003, pursuant to Section 1-3-79 which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect earlier.

Editor's Note — Laws, 1999, ch. 461, §§ 50, 51, provide:

"SECTION 50. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under Title 27, Chapters 55, 57 and 61, Mississippi Code of 1972, prior to July 1, 1999, whether such assessments, appeals, suits, claims or actions shall have been begun before July 1, 1999, or shall thereafter be begun; and the provisions of the aforesaid laws and amendments thereto are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the executing of any warrant thereunder prior to July 1, 1999, or for the filing of reports, and for the imposition of any penalties, forfeitures or claims for failure to comply therewith."

"SECTION 51. Section 36 of this act shall take effect and be in force from and after September 1, 1999. The remainder of this act shall take effect and be in force from and after July 1, 1999."

Laws of 2011, ch. 447, § 1, provides:

"SECTION 1. (1) The Mississippi Transportation Commission shall donate to the Town of Walnut Grove all of its right, title and interest in certain real property located in the Town of Walnut Grove, Leake County, Mississippi, more particularly described as follows:

"LOTS 6, 7, 8, that part of LOT 9 that is opposite LOTS 6 and 7, and that part of 20 ft. width alley that is between LOTS 6 and 7, and LOT 9; all in Block G of Chadwick Addition, Town of Walnut Grove, Mississippi.

"(2) The State of Mississippi shall retain all mineral rights in the property donated under subsection (1) of this section."

Laws of 2012, ch. 458, § 1 provides:

"SECTION 1. (1)(a) In consideration for the conveyance of property authorized in subsection (2) of this section, the Mississippi Transportation Commission may transfer and convey to the GM O Rails to Trails Recreational District of North Mississippi, all of the rights, title and interest in certain real property located in Pontotoc County, Mississippi, the property being more particularly described as follows:

"Commencing at a right-of-way marker (found) at the Northwest corner of the Doris M. Seale property as recorded in Deed Book 771, Page 44 at the Pontotoc County Chancery Clerk's office in Pontotoc, Mississippi; said point being on the Eastern right-of-way line of Highway 15 and 50 feet Easterly of Station 1357+00; thence run, along said right-of-way line and the Northern Seale boundary line, North 83 degrees 34 minutes 55 seconds East of a distance of 15 feet to a point 65 feet Easterly of Station 1357+00 for a Point of Beginning; said point begin on a simple circular curve which is 65 feet East of and parallel to the centerline of Highway 15 and having the following characteristics: Chord Bearing = North 10 degrees 24 minutes 07 seconds West; Chord Length = 401.57 feet; Radius = 2933.77 feet; thence, leaving said Northern property line and right-of-way line, run along said curve to the left in a Northerly direction for a distance of 401.89 feet to a point where said curve intersects the existing Eastern right-of-way line of Highway 15; thence run along said Eastern right-of-way line South 22 degrees 10 minutes 41 seconds East for a distance of 416.25 feet to a right-of-way marker (found) on the Northern boundary of said Seale property which is 150 feet Easterly of Station 1357+00; thence run along said Northern Seale boundary line and said existing right-of-way line, South 83 degrees 34 minutes 55 seconds West for a distance of 85.16 feet to the Point of Beginning.

"Indexing Instructions: Lying and being partly in the Northeast Quarter of Section 32 and partly in the Northwest Quarter of Section 31, Township 9 South, Range 3 East, Pontotac County, Chickasaw Meridian, Mississippi, and containing 0.35 acres more or less.

"(b) The State of Mississippi shall retain all mineral rights in the property and all rights to timber standing or growing on the property transferred and conveyed by mode of donation under subsection (1) of this section. The state shall have a reasonable time after the transfer and conveyance to remove said timber. If any property conveyed or transferred shall not, within ten (10) years of the date of conveyance and transfer, be used for public or economic development uses, then such property shall revert to the State of Mississippi.

"(2) In consideration for the conveyance of property authorized in subsection (1) of this section, the GM O Rails to Trails Recreational District of North Mississippi may transfer and convey to the Mississippi Transportation Commission all of the rights, title and interest in certain real property located in Pontotoc County, Mississippi, the property being more particularly described as follows:

"Commencing at a railroad spike (found) recognized as being the Southeast corner of the South Quarter of Section 30, Township 9 South, Range 3 East, Pontotoc County, Chickasaw Meridian, Mississippi; thence run North 50 degrees 54 minutes 36 seconds West for a distance of 335.36 feet to a point on the Eastern right-of-way of Highway 15 which is 32 feet Easterly of Station 102+12 for a point of Beginning; then run, along said Eastern right-of-way line, North 13 degrees 14 minutes 45 seconds West for a distance of 338.58 feet to a right-of-way marker (found) 59.33 feet Easterly of Station 105+50; thence, leaving said right-of-way line, run North 72 degrees 07 minutes 26 seconds East for a distance of 5.67 feet to a point 65 feet Easterly of Station 105+50; thence run, along a line 65 feet East of and parallel to the centerline of said Highway 15, South 17 degrees 52 minutes 34 seconds East for a distance of 907.78 feet to a point 65 feet Easterly of Station 1362+70.71; said point being the point of tangency of a simple circular curve 65 feet East of and parallel to the centerline of said Highway 15 and having the following characteristics: Chord Bearing = South 16 degrees 06 minutes 05 seconds East; Chord Length = 181.73 feet; Radius = 2933.77 feet; thence run along said curve to the right in a Southerly direction for a distance of 181.76 feet to a point where said curve intersects the existing Eastern right-of-way line of Highway 15; thence run, along said Eastern right-of-way line, North 22 degrees 10 minutes 41 seconds West for a distance of 364.90 to a point 32 feet Easterly of Station 1364+52.93; thence continue along said Eastern right-of-way line (32 feet East of and parallel to centerline) North 17 degrees 52 minutes 34 seconds West for a distance of 388.08 feet to the Point of Beginning.

"Indexing Instructions: Lying and being partly in the Southeast Quarter of Section 30 and partly in the Northwest Quarter of Section 31, Township 9 South, Range 3 East, Pontotoc County, Chickasaw Meridian, Mississippi, and containing 0.60 acres more or less."

Laws of 2012, ch. 553, § 3 provides:

"SECTION 3. (1) The Department of Finance and Administration, subject to survey, may convey to the Mississippi Transportation Commission all of the rights, title and interest in certain real property along North West Street located within the City of Jackson, Hinds County, Mississippi, described more specifically as follows:

"Beginning at the southwest corner of a 2.888 acre parcel of land owned by Mississippi State Highway Commission recorded in Book 736 Page 501 of the records of the Chancery Clerk of Hinds County; said corner being the POINT of BEGINNING for the following parcel:

"From said corner thence run S 12° 08' 51' W for a distance of 22.14' along the ROW of North Mill St. thence run S 28° 24' 18' E for a distance of 30.45' thence run S 29° 57' 13' E for a distance of 20.22' thence run S 32° 39' .02' E for a distance of 19.96' thence run S 37° 35' 23' E for a distance of 39.91' thence run S 39° 27' 32' E for a distance of 20.11' thence run S 40° 02' 21' E for a distance of 19.81' thence run S 43° 31' 06' E for a distance of 19.64' thence run S 49° 07' 51' E for a distance of 20.00' thence run S 52° 40' 14' E for a distance of 19.12' thence run N 28° 27' 28' E for a distance of 61.40' thence run N 89° 32' 07' E for a distance of 392.06' thence run N 00° 09' 23' E for a distance of 126.11' thence run N 89° 55' 28' W for a distance of 546.06' to the POINT of BEGINNING containing 1.598 acres being located in the S ½ of Section 27 T6N, R1E City of Jackson, Hinds County, Mississippi.

"(2) The State of Mississippi shall retain all rights to minerals in the property. If the property conveyed shall not, within ten (10) years of the date of conveyance, be used for public uses, then the property shall revert to the State of Mississippi."

Amendment Notes — The first 2003 amendment (ch. 354) added (2)(aa).

The second 2003 amendment (ch. 457) also added a (2)(aa).

The third 2003 amendment (ch. 463) added (2)(e)(iv).

The fourth 2003 amendment (ch. 564) renumbered (2)(aa), as added by Laws, 2003, ch. 354, as (2)(bb); and made minor punctuation changes.

The 2004 amendment substituted "a private entity" for "an entity" in the second sentence of (2)(z)(ii).

The 2005 amendment added (2)(cc).

Cross References — Mississippi Tort Claims Act, see §§ 11-46-1 et seq.

State Department of Archives and History, see generally §§ 39-5-1 et seq.

Use of inmates of correctional institutions on state highway projects, see § 47-5-133.

Mississippi Department of Wildlife, Fisheries and Parks, generally, see § 49-4-1 et seq.

State Forestry Commission, see generally § 49-19-1 et seq.

Powers and duties of the commission in connection with outdoor advertising, see §§ 49-23-1 et seq.

Authority of the highway commission to convey to United States government rights-of-way for construction of national highway or parkway, see §§ 55-5-7 et seq.

Surveys, studies and plans by Transportation Commission in connection with national parkways, see §§ 55-5-23, 55-5-25.

Definition of term "traffic control devices", see § 63-3-133.

Prohibition of unauthorized signs, signals, etc., upon or in view of any highway, see § 63-3-317.

Highway speed limits and power of the commission to adjust speed limits, see §§ 63-3-501, 63-3-503.

District offices for repair and housing of equipment and vehicles of State Department of Transportation, see § 65-1-21.

Authority of Transportation Commission to contract with other entities as to matters concerning highways, see §§ 65-1-25 through 65-1-29.

Eminent domain power of the commission, see § 65-1-47.

Power of the commission over highway grade crossings, see § 65-1-69.

Enforcement agreements with contiguous states, see § 65-1-501 et seq.

Apportionment of federal funds for county highway aid by Transportation Commission, see §§ 65-11-9 et seq.

Authority of highway commission with regard to bridges or tunnels over Tennessee-Tombigbee Waterway, see § 65-26-5.

Division of Plant Industry as meaning the Bureau of Plant Industry within the Regulatory Office of the Mississippi Department of Agriculture and Commerce, see § 69-2-1.

Duty of railroads to maintain highway crossings, see § 77-9-251.

Placement of trash and garbage cans and erection of signs by the highway commission, warning of the penalty for littering, see § 97-15-29.

Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

Federal Aspects — Federal Bureau of Public Roads, see 49 USCS Appx §§ 1653 et seq.

JUDICIAL DECISIONS

I. Under Current Law.

1. In general.
2. Traffic violations.
3.-5. [Reserved for future use.]

II. Under Former § 65-1-19.

6. In general.
7. Statutory construction.
8. Right of access.
9. Authorization to enter into contract; ratification.
10. Liability for taxes.
11. Abandonment of highway.
12. Pleading and practice; venue.

I. Under Current Law.

1. In general.

A right-of-way easement granted to the Mississippi State Highway Commission for a specific public right-of-way of a certain highway ceased to exist when the commission determined that a portion of that easement was no longer needed by the public. Thus, the commission could not convey the fee simple title to the property, but could only abandon its easement. Mississippi State Hwy. Comm'n v. McClure, 536 So. 2d 895 (Miss. 1988).

The Mississippi State Highway Commission had the authority under § 65-1-

8(e) to request that pipeline be removed from a bridge, citing hazards to the public health as a reason for doing so. Mississippi State Hwy. Comm'n v. New Albany Gas Sys., 534 So. 2d 204 (Miss. 1988).

The statutes of limitation concerning adverse possession do not run against the state. Mississippi State Hwy. Comm'n v. New Albany Gas Sys., 534 So. 2d 204 (Miss. 1988).

2. Traffic violations.

Although there was no violation of § 63-3-516 when the defendant drove 67 miles per hour in a construction zone that was posted at 60 miles per hour because it was nighttime and no workers were present, there was a violation of this section, which allows the Transportation Commission to adopt rules, regulations and ordinances for the control of and the policing of the traffic on the state highways. Harrison v. State, — So. 2d —, 2000 Miss. App. LEXIS 44 (Miss. Ct. App. Feb. 8, 2000), affirmed by 800 So. 2d 1134, 2001 Miss. LEXIS 223 (Miss. 2001).

3.-5. [Reserved for future use.]

II. Under Former § 65-1-19.

6. In general.

Purchase of insurance is not to be construed as waiver by legislature of highway commission's immunity from suit. Brady v. Michelin Reifenwerke, 613 F. Supp. 1076 (S.D. Miss. 1985).

In an action for wrongful death arising out of an accident on a drawbridge, the complaints against the Mississippi State Highway Commission and its individual employees were properly dismissed under the doctrine of sovereign immunity where the statute did not specifically impose liability in such cases; there was no waiver of the doctrine of sovereign immunity as to the individual defendants by the purchase of fidelity bonds. However, where it was unclear whether the trial judge, in dismissing the complaints, was ruling on the claims against the employees of the Commission in their official capacity or as individuals and where the judge did not address the issue of whether the actions complained of were ministerial or discretionary, the case would be remanded for a determination of whether the doctrine of sovereign immunity shielded the employees of the Commission in their individual capacities. The partial immunity afforded a public official only extends to discretionary acts; a public official remains liable in his individual capacity for ministerial acts. Karpovs v. State, 663 F.2d 640 (5th Cir. 1981).

The state highway commission has the power to condemn school property. Harrison County Sch. Bd. v. State Hwy. Comm'n, 284 So. 2d 50 (Miss. 1973).

A proceeding to condemn land for a cloverleaf at the intersection of two highways already in existence, which had not been limited access highways, was not controlled by Chapter 332, Laws of 1948, § 14, as amended by § 11 of Ch 6 of the Laws of the Extraordinary Session of 1949 (§ 8038), nor by Ch 314, Laws of 1956 (§§ 8039-01 et seq). Carney v. Mississippi State Hwy. Comm'n, 233 Miss. 598, 103 So. 2d 413 (1958).

The provision of paragraph (B) of Code 1942, § 8037, that "the municipality shall have full control and responsibility beyond the curb lines of any such streets" refers to streets being maintained by the state highway commission not to highways where the commission owned the right of way lying both within and without the curbs, and where the commission has title to right of way of a highway running through the city, it has the power to cause the removal of certain commercial signs projecting over and above the right of way, whether such use or obstructions constitute safety hazards or not. Mississippi State Hwy. Comm'n v. Adams, 230 Miss. 559, 93 So. 2d 650 (1957).

Where an abutting property owner's predecessor in title had conveyed a highway right of way to the state highway commission, and subsequently a gas company, pursuant to permission obtained from the state highway commission, laid a gas distribution line wholly within the right of way, the abutting property owner was not entitled to rent from the gas company, where his property was not damaged or depreciated in value by the use of the right of way for the distribution line; nor was there violation of the abutting property owner's rights under § 17 of the Mississippi Constitution. Mississippi

Valley Gas Co. v. Boydstun, 230 Miss. 11, 92 So. 2d 334 (1957).

Code 1942, § 8038 did not modify municipality's jurisdiction over its streets, and where municipality did not consent, the construction of median strip across municipality's street at highway intersection by highway commission was beyond the statutory authority and power. Hamilton v. Mississippi State Hwy. Comm'n, 220 Miss. 340, 70 So. 2d 856 (1954).

The state highway commission is empowered to acquire, either by purchase or condemnation, only an easement or right of way in lands for highway purposes. Whitworth v. Mississippi State Hwy. Comm'n, 203 Miss. 94, 33 So. 2d 612 (1948).

State highway commission has the power and is charged with the duty of building public roads and the use of public funds for that purpose. State Hwy. Comm'n v. Collins, 198 Miss. 499, 23 So. 2d 543 (1945).

Former statute did not modify a municipality's jurisdiction over its streets, including a state highway running through the municipality, particularly in view of the provision that no rule, regulation, or ordinance shall be made that conflicts with any statute now in force or which may hereafter be enacted, or with any ordinance of incorporated cities or towns. City of Ellisville v. State Hwy. Comm'n, 186 Miss. 473, 191 So. 274 (1939).

7. Statutory construction.

The estate acquired by the highway commission for highway purposes is measured by the language of the statutes and not of the deeds. Whitworth v. Mississippi State Hwy. Comm'n, 203 Miss. 94, 33 So. 2d 612 (1948).

Court cannot give language of statutes respecting highway commission's powers restricted or over-technical interpretation. Trahan v. State Hwy. Comm'n, 169 Miss. 732, 151 So. 178 (1933).

8. Right of access.

The trial court in eminent domain proceedings instituted by the Mississippi State Highway Commission erred in allowing the condemnees to introduce evidence concerning loss of access to an adjoining highway, where the Commission had previously received warranty deeds from the condemnees' predecessors in title for the purpose of four-laning the highway and locating a sight flare at an adjacent intersection, where the Commission's payment for the lands so acquired by the predecessors was for "all" surface rights which the grantors and their successors had in the lands conveyed including the right to drive vehicles across the lands, where such purchase of the sight flare area subjected it to control by the Commission under its police powers as set forth in this section, and where the Commission previously promulgated a rule prohibiting driveway access across sight flare areas. Mississippi State Hwy. Comm'n v. Blackwell, 350 So. 2d 1325 (Miss. 1977).

The adoption by the highway commission of an order under subsection (h) of Code 1942, § 8038 declaring a certain highway a limited access highway, the publication of notice of the adoption of the order, and the erection at various places along the highway of "limited access highway" markers amounted neither to an entry, a trespass, or an ouster by the commission, nor was it effective as a taking of the right of an abutting property owner to direct access to the highway in question. Mississippi State Hwy. Comm'n v. Null, 210 So. 2d 661 (Miss. 1968).

The adoption of a declaratory order by the state highway commission wherein a certain highway was designated as a limited access highway did not amount to a taking of an abutting property owner's right of direct and free access to the highway, nor did it obviate the constitutional necessity of paying just compensation and damages when and if it actually should be taken or damaged. Mississippi State Hwy. Comm'n v. Null, 210 So. 2d 661 (Miss. 1968).

Where the construction of a frontage road paralleling a limited access highway will substantially impair or damage an abutting property owner's right of access to the highway in question and will effectively destroy his right of direct and free access thereto as it had previously existed, he is entitled to be compensated for this loss of access as well as for the value of a small parcel of land which will be embraced within the frontage road's easement. Mississippi State Hwy. Comm'n v. Null, 210 So. 2d 661 (Miss. 1968).

Where a new nonaccess highway was constructed outside the right of way of an old highway, the abutting property owners could not require the state highway commission to maintain direct accesses from their property into the through lanes of the new highway, where the commission provided the abutting property owners with reasonably safe and convenient accesses from all of their abutting property to the highway by means of a frontage road and reasonably convenient interchanges; and such action on the part of the state highway commission was a reasonable exercise of the police power of the state in the interest of the protection of human life and the regulation of public traffic. Harreld v. Mississippi State Hwy. Comm'n, 234 Miss. 1, 103 So. 2d 852 (1958).

Since the city had no power to close the alley except upon first making due compensation to the abutting landowners, if the city had closed the alley without making due compensation and the state highway commission had entered upon and obstructed it by a direct embankment, the city and highway commission would have been jointly liable. Collins v. Mississippi State Hwy. Comm'n, 233 Miss. 474, 102 So. 2d 678 (1958).

The state highway commission did not acquire an abutting landowner's right of access to highways under a 1938 deed conveying to the Commission a parcel of land for highway right of way purposes. Mississippi State Hwy. Comm'n v. Spencer, 233 Miss. 155, 101 So. 2d 499 (1958).

In an action by owners of abutting land which was divided by a creek into two units one of which had been developed and utilized as a commercial property while the other had not been developed, against the state highway commission for mandatory injunction requiring the commission to allow them access to the highway from the undeveloped unit, the chancery court properly found that the land comprised two economic units and that access from the developed unit could not afford access from the undeveloped unit. Mississippi State Hwy. Comm'n v. Spencer, 233 Miss. 155, 101 So. 2d 499 (1958).

In an action by owners of abutting land which was divided by a creek into two units, one of which had been developed and utilized as commercial property while the other had been undeveloped, against the state highway commission for mandatory injunction requiring the commission to allow them access to the highway from the undeveloped unit, and other relief, where it was properly found that the land comprised two economic units and that access to the developed unit did not afford access to the undeveloped unit, the chancery court could in the exercise of its discretion restrain the landowners from exercising access to the highway from the undeveloped unit on condition that the state highway commission construct a bridge and service drive, but could not require the commission to construct the bridge and service road, since this was a matter within the discretion of the members of the commission. Mississippi State Hwy. Comm'n v. Spencer, 233 Miss. 155, 101 So. 2d 499 (1958).

Action of the state highway commission in denying the right of access to abutting landowners was not a regulation governing traffic upon and entering state highways but was a prohibition affecting the exercise of property rights, which could not be taken or damaged without compensation therefor. Mississippi State Hwy. Comm'n v. Spencer, 233 Miss. 155, 101 So. 2d 499 (1958).

9. Authorization to enter into contract; ratification.

Under provisions granting authority to make contracts, the Highway Commission is authorized to purchase uninsured motorist coverage as part of the liability insurance coverage for its motor vehicles. Parker v. Cotton Belt Ins. Co., 314 So. 2d 342 (Miss. 1975).

One sent out by the state highway commission to negotiate a purchase of and to procure deed to eight-tenths of an acre of land which the commission's engineers had surveyed and platted, the described area being shaded in special color, had no authority to agree with the vendor that only four-tenths of an acre would be purchased, and, as the Commission had not ratified the agreement, it was not bound thereby, and consequently the vendor was not entitled to reformation of a deed conveying eight-tenths of an acre. State Hwy. Comm'n v. Collins, 198 Miss. 499, 23 So. 2d 543 (1945).

Lessor dealing with highway director was chargeable with notice director could act only in strict compliance with orders of highway commission, and that such authority must be found in commission's minutes. Pearl Realty Co. v. State Hwy. Comm'n, 170 Miss. 103, 154 So. 292 (1934).

Lease executed by highway director for three-year period was not binding on highway commission which authorized only two-year lease and did not ratify provision by order on its minutes. Pearl Realty Co. v. State Hwy. Comm'n, 170 Miss. 103, 154 So. 292 (1934).

Entering and occupying leased premises and obtaining injunctive relief under lease executed by highway director held not ratification of provision extending lease for additional year since commission could not ratify unauthorized contract otherwise than by order on its minutes. Pearl Realty Co. v. State Hwy. Comm'n, 170 Miss. 103, 154 So. 292 (1934).

10. Liability for taxes.

Highway commission was unauthorized to pay gasoline tax funds to State Tax Collector, suing for counties' alleged statutory share. State Hwy. Comm'n v. Gulley, 167 Miss. 631, 145 So. 351 (1933).

11. Abandonment of highway.

There is no law preventing supervisors from retaking public road abandoned by Highway Commission. Trahan v. State Hwy. Comm'n, 169 Miss. 732, 151 So. 178 (1933).

Abutting property owners seeking injunction held to have sustained no legal injury where highway commission abandoned part of State highway for shorter and safer route, since commission acted within limits of rightful authority. Trahan v. State Hwy. Comm'n, 169 Miss. 732, 151 So. 178 (1933).

12. Pleading and practice; venue.

A suit for damages in anticipation that the city would close an alley in violation of statute, and that the state highway commission would enter upon the alley and obstruct it by a dirt embankment was prematurely brought where no damages had yet resulted. Collins v. Mississippi State Hwy. Comm'n, 233 Miss. 474, 102 So. 2d 678 (1958).

In a proceeding by property owners to enjoin state highway commission from proceeding with proposed construction of a freeway through a city, where the allegations of the bill were sufficient to charge an abuse of discretion on the part of the state highway commission and where the charge was not admitted by demurrer, the state highway commission and its officials were required to answer and a hearing was to be held on the merits. Mississippi State Hwy. Comm'n v. Fuller, 224 Miss. 712, 80 So. 2d 814 (1955).

Retained percentages retained by the state highway commission under the prime contract are not such "effects" of the nonresident contractor as may be reached by process of attachment in chancery, where so retained under the contract in good faith. Mid S. Paving Co. v. State Hwy. Comm'n, 197 Miss. 751, 20 So. 2d 834 (1945).

Funds of nonresident prime contractor to become due under contract with the state highway commission, which, prior to service of attachment process, in good faith and for purpose of financing performance of the prime contract, had been assigned as security for advances therein, do not constitute such effects of prime contractor as may be reached by attachment process in chancery until they have been or should have been released by the lender to the prime contractor. Mid S. Paving Co. v. State Hwy. Comm'n, 197 Miss. 751, 20 So. 2d 834 (1945).

State highway commission which held money due and owing to highway prime contractor, a nonresident corporation, could be sued as garnishee in a nonresident attachment in chancery, in suit by subcontractor to recover amount due from prime contractor, where the work was complete and finished and had been inspected and approved by the commission, and the garnishment involved no interruption of work or contest over installment payments or the final payment. Mid S. Paving Co. v. State Hwy. Comm'n, 197 Miss. 751, 20 So. 2d 834 (1945).

Venue of a mandamus action by Hancock County to compel the state highway commission to appraise and reimburse such county its proportionate value of a bridge constructed by Hancock and Harrison Counties, which had been taken over by the highway commission and had become a part of United States Highway 90, was in Hinds County, where the state highway commission had its permanent office. State ex rel. Cowan v. State Hwy. Comm'n, 195 Miss. 657, 13 So. 2d 614 (1943).

The fact that the state highway commission has been established as a body corporate subject to suit, together with its functions of constructing and maintaining roads and highways throughout the state, and other multiple privileges and responsibilities, operates to invest it with the character of a private corporation to the extent that it is subject to liability for all compensatory damages established as a result of its breach of contract, and its liability for costs in such suits is equally clear. State Hwy. Comm'n v. Wunderlich, 194 Miss. 119, 11 So. 2d 437 (1943).

The State highway commission was liable to suit by a contractor with whom the commission contracted to construct a highway for breach of the contract in failing promptly to furnish rights of way as provided therein, proximately causing such contractor additional expense in maintaining the work, the breach and its proximate consequences having occurred during and directly in and about the actual work of the performance of the contract, as against the contention that the commission was subject to suit by a contractor only for any failure by the commission to pay the contractor for any labor done or materials furnished by the contractor under and in accordance with the terms of his contract with the commission for road construction work at the sums or prices specifically stipulated in the contract. Wunderlich v. State Hwy. Comm'n, 183 Miss. 428, 184 So. 456 (1938).

Statutes conferring exclusive jurisdiction on state highway commission over state highways and charging it with duty of maintaining such highways held not conflicting with statute imposing duty upon railways of maintaining bridges over railways and approaches thereto, and did not relieve railways of that duty. Alabama & V. Ry. Co. v. Graham, 171 Miss. 695, 157 So. 241 (1934).

Suit against state highway commission will lie only for liability imposed by statute, though commission is body corporate and may sue and be sued. State Hwy. Comm'n v. Knight, 170 Miss. 60, 154 So. 263 (1934).

General statutory authorization to sue governmental subdivision or agency does not create liability, and suit is maintainable thereunder only for liability authorized by statute. Stewart v. State Hwy. Comm'n, 166 Miss. 43, 148 So. 218 (1933).

ATTORNEY GENERAL OPINIONS

The Mississippi Transportation Commission is authorized to make and promulgate reasonable rules and regulations, to provide and adopt standard specifications, including specifications requiring a warranty or warranties of workmanship, materials or performance, including asphalt paving, as a condition of letting or awarding a road or bridge construction contract. Warren, January 8, 1999, A.G. Op. #98-0759.

In view of the overriding public interest in the carrying out of the purposes of the sixteenth section trust, where the Mississippi Department of Transportation obtains a right of way for a highway that runs across sixteenth section land and subsequently wants to cut the timber in the median of that highway, the timber involved would be harvested by the school board and the proceeds thereof used to support the public schools. Cheney, June 4, 1999, A.G. Op. #99-0231.

The Mississippi Transportation Commission had authority, in its discretion, to authorize its Executive Director to serve as a corporate officer or member of the Board of Directors of the Mississippi Transportation Institute, if the commission found that to do so would advance the commission's statutory duties and purposes. Warren, Feb. 10, 2000, A.G. Op. #2000-0043.

The Mississippi Transportation Commission may acquire by condemnation land or other property of railroads for the construction and maintenance of state highways when a negotiated purchase of the interests cannot be arranged pursuant to its eminent domain authority. Warren, June 23, 2000, A.G. Op. #2000-0290.

The Mississippi Transportation Commission through the use of its regulatory power may require the relocation or abandonment of a railcar storage facility for the purpose of ensuring public safety upon payment of reasonable compensation. Warren, June 23, 2000, A.G. Op. #2000-0290.

The Mississippi Transportation Commission could enter into an agreement with a railroad in which the Mississippi Department of Transportation would pay the railroad reasonable consideration to remove and relocate approximately 9,000 to 11,000 feet of railroad track in a particular tract. Warren, June 23, 2000, A.G. Op. #2000-0290.

The statute grants the Transportation Commission the authority to enact police and protective regulations for the control of traffic on the state highways, which may include setting limits that would have the effect of limiting truck traffic on certain highways for public safety reasons; however, the Commission should, in the exercise of this power, establish procedures and criteria for determining the necessity of any such action, and apply those procedures consistently. Hall, Oct. 20, 2000, A.G. Op. #2000-0499.

The Mississippi Transportation Commission may not purchase gifts, meals, or refreshments for employees being recognized for service. Long, Apr. 13, 2001, A.G. Op. #01-0208.

The Office of State Aid Roads, although administered by the State Aid Engineer and operated under a separate budget, is a division within the Mississippi Department of Transportation which, through its commissioners, is given the authority to provide appropriate office space for its various divisions, and may relocate any of its offices, if such a move is deemed necessary for the administration of the Department. Miller, Sept. 9, 2002, A.G. Op. #02-0444.

The Department of Transportation, in conjunction with the railroad at issue, has funding responsibility for pavement markings and advance warning signs for roads which are under the Department jurisdiction as part of the state designated highway system and which cross a railroad. Brown, Apr. 4, 2003, A.G. Op. #02-0769.

If the public roadway/railroad crossing involves roads which are under different jurisdictions, the funding responsibilities should be allocated proportionately among the respective jurisdictions. Brown, Apr. 4, 2003, A.G. Op. #02-0769.

RESEARCH REFERENCES

ALR. Validity, construction, and application of state relocation assistance laws. 49 A.L.R.4th 491.

Am Jur. 39 Am. Jur. 2d, Highways, Streets and Bridges §§ 1 et seq.

9 Am. Jur. Pl & Pr Forms (Rev), Eminent Domain, Form 31.1 (Complaint, petition, or declaration — For condemnation — By state agency — For state transportation facility).

13A Am. Jur. Pl & Pr Forms (Rev), Highways, Streets, and Bridges, Forms 12 et seq. (liability of public agencies and authorities; construction and maintenance).

CJS. 39A C.J.S., Highways §§ 157-161.

§ 65-1-9. Executive Director of Department of Transportation.

The commission shall appoint an executive director of the Mississippi Department of Transportation for a term of office beginning on April 1, 1993. The person serving as Executive Director of the State Highway Department on

June 30, 1992, shall serve until April 1, 1993, as the Executive Director of the Mississippi Department of Transportation, and thereafter shall be eligible for reappointment to the position of Executive Director of the Mississippi Department of Transportation. Succeeding terms shall expire on April 1 each four (4) years thereafter. The Executive Director may be removed by a majority of the commission pursuant to Section 25-9-101 et seq., Mississippi Code of 1972. All appointments by the commission shall be with the advice and consent of the Senate. The commission shall submit its appointment to the Senate not later than March 1 of the year in which a term expires, and if such submission is not made by March 1, the incumbent director shall be deemed to have been reappointed for a four-year term. In the event a vacancy occurs from resignation, death or removal from office by the commission, the commission shall submit its appointment for the unexpired term to the Senate not later than the next March 1 after such vacancy occurs. If no appointment for an unexpired term is submitted to the Senate, the Governor shall make such appointment not later than April 1 of such year. The commission shall fix the compensation of the Executive Director, subject to approval by the State Personnel Board. The Executive Director shall be eligible for reappointment. The Executive Director shall have the following qualifications:

(a) Possess a wide knowledge of the transportation system and needs of Mississippi;

(b) Possess a wide knowledge of the principles of transportation organization and administration; and

(c) Possess selected training or expertise in the field of transportation.

No person who is a member of the Mississippi Transportation Commission, or who has been a member of the Transportation Commission or of its predecessor, the State Highway Commission, within two (2) years next preceding his appointment, shall be eligible to be chosen as Executive Director of the department. The executive director shall be the executive officer of the commission and shall be subject to its orders and directions. The executive director shall give his entire time to the duties of his office. Before entering upon the duties of his office, the executive director shall give bond to the State of Mississippi in the sum of Fifty Thousand Dollars ($50,000.00), conditioned upon the faithful discharge and performance of his official duty. The principal and surety on such bond shall be liable thereunder to the state for double the amount of value of any money or property which the state may lose, if any, by reason of any wrongful or criminal act of the executive director. Such bond, when approved by the commission, shall be filed with the Secretary of State, and the premium thereon shall be paid from any funds available to the commission.

SOURCES: Codes, 1930, § 4990; 1942, § 8015; Laws, 1930, ch. 47; Laws, 1948, ch. 332, § 2; Laws, 1977, ch. 350; Laws, 1981, ch. 464, § 3; Laws, 1992, ch. 496, § 6, eff from and after July 1, 1992.

Cross References — Chief Administrative Officer of the State Highway Department as meaning Executive Director of the Mississippi Department of Transportation, see § 65-1-1.

JUDICIAL DECISIONS

1.-5. [Reserved for future use.]
6. Under former law.

1.-5. [Reserved for future use.]

6. Under former law.

Provision of lease for office space executed by highway director which purported to bind highway commission for three-year period on commission's failure to give notice to terminate lease held not binding on highway commission where commission authorized execution of only two-year lease, and did not ratify lease provision by order on its minutes. Pearl Realty Co. v. State Hwy. Comm'n, 170 Miss. 103, 154 So. 292 (1934).

Highway commission's action in entering on and occupying leased premises and obtaining injunctive relief under lease executed by highway director held not ratification of lease provision extending lease for additional year on commission's failure to give notice to terminate lease and hence did not estop commission from questioning validity of such provision, since commission could not ratify unauthorized contract otherwise than by order on its minutes. Pearl Realty Co. v. State Hwy. Comm'n, 170 Miss. 103, 154 So. 292 (1934).

Lessor dealing with highway director in execution of lease held chargeable with notice that director could act only in strict compliance with highway commission's order; that state highway commission was required to keep minutes of its proceedings; and that director's authority to lease must be found in orders appearing on commission's minutes. Pearl Realty Co. v. State Hwy. Comm'n, 170 Miss. 103, 154 So. 292 (1934).

State Highway Commission held not liable for negligence of its engineers in so constructing ditches on sides of highway as to cause water of creek to overflow farm lands. State Hwy. Comm'n v. Knight, 170 Miss. 60, 154 So. 263 (1934).

ATTORNEY GENERAL OPINIONS

The Mississippi Department of Transportation could remove a portion of state highway from its jurisdiction and maintenance after completing work on a bypass around a municipality in which the portion of the highway was located without securing authority to do so by legislative act. Shepard, Jan. 25, 2002, A.G. Op. #02-0008.

The Transportation Commission has the power to authorize and require the executive director to travel in the performance of his official duties, and to approve the director's travel expenses or to specify the method in which such expenses may be approved. Hall, Mar. 19, 2004, A.G. Op. 04-0111.

§ 65-1-10. Powers and duties of Executive Director.

Under the authority of the Mississippi Transportation Commission, and in conformity with its orders as spread on its minutes, the executive director shall:

(a) Unless otherwise provided by law, appoint a director in charge of each operating office of the department who shall be responsible to the Executive Director for the operation of such office. Each such director shall be qualified and experienced in the functions performed by the office under his charge;

(b) Administer the policies promulgated by the commission;

(c) Supervise and direct all administrative and technical activities of the department;

(d) Organize the offices and bureaus of the department;

(e) Coordinate the activities of the various offices of the department;

(f) Fix the compensation of employees of the department and require any employee to give bond to the State of Mississippi for the faithful performance of his duties in an amount the executive director deems appropriate. Premiums on all bonds so required shall be paid out of any funds available to the department;

(g) Recommend such studies and investigations as he may deem appropriate and carry out the approved recommendations in conjunction with the various offices;

(h) Prepare and deliver to the Legislature and the Governor on or before January 1 of each year, and at such other times as may be required by the Legislature or Governor, a full report of the work of the department and the offices thereof, including a detailed statement of expenditures of the department and any recommendations the department may have.

(i) Have full and general supervision over all matters relating to the construction or maintenance of the state highways, letting of contracts therefor, and the selection of materials to be used in the construction of state highways under the authority conferred by this chapter as herein set forth and the employment, promotion, demotion, reprimand, suspension, termination, reassignment, transfer, moving or relocation of all personnel not specifically authorized by statute to be employed by the commission. The executive director may authorize the payment of expenses of any personnel reassigned, transferred, moved or relocated in accordance with such rules and regulations as are promulgated by the commission;

(j) Approve all bids, sign all vouchers and requisitions, issue all orders for supplies and materials, sign all contracts and agreements in the name of the State of Mississippi, and subscribe to all other matters which may arise in the carrying out of the intent and purpose of this chapter;

(k) Receive and assume control, for the benefit of the state, of any and all highways herein or hereafter fixed as roads constituting a part of the state highway system;

(*l*) Provide for boulevard stops, restricted entrances to main highways and access driveways, neutral grounds, and roadside parks, erect all suitable direction and warning signs, and provide access roads in or to municipalities where necessary; provide limited access facilities when and where deemed necessary, such a facility being defined as a highway or street especially designed or designated for through traffic and over, from or to which owners or occupants of abutting land or other persons have only such limited right or easement of access as may be prescribed by the commission, and provide that certain highways or streets may be parkways from which trucks, buses and other commercial vehicles shall be excluded or may be freeways open to customary forms of highway and street traffic and use, and such limited access facilities or parkways may be planned, designated, established, regulated, vacated, altered, improved, constructed and maintained and rights-of-way therefor specifically obtained, either by purchase, gift, condemnation or other form of acquisition;

(m) Construct bridges with or without footways, and sidewalks where deemed essential to decrease hazards;

(n) Perform services for the Department of Finance and Administration on state property, including, but not limited to, engineering services, and to advance such funds to defray the cost of the expenses incurred in performing such services from out of Transportation Department funds until such department is reimbursed by the Department of Finance and Administration;

(o) Perform all duties authorized by Section 27-19-136, Mississippi Code of 1972, concerning the assessment and collection of permit fees, fines and penalties.

SOURCES: Laws, 1981, ch. 464, § 4; Laws, 1988, ch. 437; Laws, 1992, ch. 496, § 7; Laws, 1996, ch. 375, § 3, eff from and after October 1, 1996.

Editor's Note — Laws of 2009, ch. 497, § 4 provides:

"SECTION 4. The Executive Director of the Mississippi Department of Transportation is directed to file an application with the Department of Finance and Administration to establish the "Multi-Modal Transportation Improvement Fund" as created in Section 65-1-703. The executive director shall perform all acts necessary to establish the fund as a separate fund within the Statewide Automated Accounting System (SAAS) and the State Treasury before July 1, 2009."

ATTORNEY GENERAL OPINIONS

The Mississippi Transportation Commission had authority, in its discretion, to authorize its Executive Director to serve as a corporate officer or member of the Board of Directors of the Mississippi Transportation Institute if the commission found that to do so would advance the commission's statutory duties and purposes. Warren, Feb. 10, 2000, A.G. Op. #2000-0043.

§ 65-1-11. Chief Engineer and other employees.

The executive director, subject to the approval of the commission, shall employ a chief engineer who shall be a registered civil engineer, a graduate of a recognized school of engineering, and who shall have had not less than five (5) years' actual professional experience in highway construction. The chief engineer shall also be a deputy executive director of the department with such powers and duties as may be prescribed by the commission. The chief engineer shall give bond in the sum of Fifty Thousand Dollars ($50,000.00) in some surety company authorized to do business in this state, which bond shall be conditioned upon the faithful performance and discharge of his duties. The principal and surety on such bond shall be liable thereunder to the State of Mississippi for double the amount of the value of any money or property which the state may lose, if any, by reason of any wrongful or criminal act of such engineer. The term of office of the chief engineer shall be for a period of four (4) years, unless sooner removed as hereinafter provided, and he shall be eligible for reappointment. The first term of office, however, shall extend from the date of appointment until the first Monday of January 1952.

SOURCES: Codes, 1930, § 4991; 1942, § 8016; Laws, 1930, ch. 47; Laws, 1948, ch. 332, § 3; Laws, 1966, ch. 485, § 1; Laws, 1992, ch. 496, § 8; Laws, 2003, ch. 461, § 2, eff from and after passage (approved Mar. 23, 2003.)

Amendment Notes — The 2003 amendment deleted "transportion" following "director of the"; substituted "with such ... the commission" for "and shall act as executive director in case of the illness or disability of the executive director or his absence from the state" in the second sentence; and made nonsubstantive changes.

§ 65-1-13. Deputy executive director for administration.

(1) The commission, upon the recommendation of the executive director, may appoint one (1) deputy executive director for administration in addition to the deputy executive director provided for in Section 65-1-11. The powers and duties of the deputy executive director for administration appointed pursuant to this subsection shall be specified by the commission and shall include, but not be limited to, the execution on behalf of the executive director of contracts approved by the commission and other documents. The appointment of such deputy executive director for administration and the powers specified by the commission must be spread upon the minutes of the commission to become effective.

(2) The commission may issue powers of attorney to individuals as may be recommended by the executive director to execute any documents on behalf of the commission and the executive director as the commission considers appropriate to facilitate the efficient implementation of its duties and responsibilities; however, a power of attorney issued under this subsection shall not authorize the execution of contracts approved by the commission. Powers of attorney issued under this subsection shall specify the limits of the authority to execute documents granted by them. The duration of such powers of attorney shall be for the term of office of the commission that issued them. Such powers of attorney may be revoked by the commission at any time.

SOURCES: Laws, 2003, ch. 461, § 1, eff from and after passage (approved Mar. 23, 2003.)

Editor's Note — A prior § 65-1-13 [Codes, 1942, § 8059.3; Laws, 1948, ch. 332, § 33] was repealed by Laws, 1985, ch. 366, eff from and after March 20,1985. Former § 65-1-13 pertained to discharge of employees having more than 18 months of continuous service.

§ 65-1-15. Secretary of the commission.

The Mississippi Transportation Commission shall employ a secretary whose salary shall be fixed by the commission and shall require the secretary to keep the proper minute books, order books and other proper books. The secretary shall be the custodian of all books, records or other papers of the department. All of such books, records and papers shall be public records and open to inspection by the public during business hours. Each of the commissioners, the Executive Director and the secretary may make certified copies of any proceedings of the department, any of its books or papers, or extracts therefrom. Such copy shall bear the signature of the officer giving it and also the seal of the Mississippi Department of Transportation, and such copies shall be admitted in evidence equally with the originals thereof in all courts of this state. Each of the commissioners and the executive director may take and hear testimony. The seal shall be the coat of arms of the State of Mississippi, surrounded by the words "Mississippi Department of Transportation". In the event that the original seal should be stolen, lost or misplaced, the commission shall have the power to secure a duplicate seal. The secretary shall be the custodian of the seal and shall do and perform all other things which may be properly required of him by the executive director or commission. He shall give bond in the sum of not less than Fifty Thousand Dollars ($50,000.00), conditioned as required by law. Except for warrant requisitions drawn in accordance with the provisions of Section 65-1-115, Mississippi Code of 1972, all proceedings of the commission shall be entered upon the minutes of the commission in a minute book to be provided and kept for that purpose, which minutes shall be signed by the chairman or acting chairman of the respective meetings and by the secretary. The pages of the minute book shall be numbered consecutively by the bookmaker. The secretary of the commission shall be an ex officio notary public, authorized to administer oaths and take acknowledgments in the same manner and to the same extent as any other duly appointed, qualified, commissioned and acting notary public, and the seal of the Transportation Department shall be his seal as such ex officio notary public. The bond premium of the secretary shall be paid from any funds available to the commission.

SOURCES: Codes, 1930, § 4992; 1942, § 8017; Laws, 1930, ch. 47; Laws, 1948, ch. 332, § 4; Laws, 1966, ch. 485, § 2; Laws, 1992, ch. 496, § 9, eff from and after July 1, 1992.

JUDICIAL DECISIONS

1.-5. [Reserved for future use.]
6. Under former law.

1.-5. [Reserved for future use.]

6. Under former law.

Statute requiring state highway commission to keep minutes of its proceedings and providing that such records should be public records was mandatory so that commission could not ratify unauthorized contract other than by order on its minutes. Pearl Realty Co. v. State Hwy. Comm'n, 170 Miss. 103, 154 So. 292 (1934).

Highway commission's action in entering on and occupying leased premises and obtaining injunctive relief under lease executed by highway director was not ratification of lease provision extending lease for additional year on commission's failure to give notice to terminate lease, and hence did not estop commission from questioning validity of such provision, since commission could not ratify unauthorized contract otherwise than by order on its minutes. Pearl Realty Co. v. State Hwy. Comm'n, 170 Miss. 103, 154 So. 292 (1934).

§ 65-1-17. Rental of office space in buildings not owned by the state.

In the event the department needs additional office space which cannot be provided either in state office buildings, or other state-owned buildings, the commission is hereby authorized to rent, on an annual or month-to-month basis on such terms as it may determine to be proper, such office space as may be necessary.

SOURCES: Codes, 1942, § 3827-12; Laws, 1966, ch. 494, § 2; Laws, 1992, ch. 496, § 10, eff from and after July 1, 1992.

Cross References — Appointment of additional assistant attorneys general to handle legal affairs of Transportation Commission, see § 7-5-13.

§ 65-1-19. Repealed.

Repealed by Laws of 1981, ch. 464, § 19, eff from and after July 1, 1981.

[Codes, 1930, § 5006; 1942, § 8038; Laws, 1930, ch. 47; Laws, 1948, ch. 332, § 14; Laws, 1949, Ex. Sess. ch. 6, § 11; Laws, 1956, ch. 313; Laws, 1958, ch. 369; Laws, 1964, ch. 452, § 1; Laws, 1972, ch 369 § 15; Laws, 1973, ch. 495, § 1; Laws, 1974, ch. 317]

Editor's Note — Former § 65-1-19 related to the powers of the Transportation Commission. For current provisions, see § 65-1-8.

§ 65-1-20. Office of Intermodal Planning.

The Office of Intermodal Planning in the Mississippi Department of Transportation shall have the following responsibilities with respect to all ports in this state that are not state ports:

(a) Study and coordinate efforts designed to promote the development of the navigable waters in the State of Mississippi for water transportation.

(b) Encourage and coordinate the development of river and deep-sea ports and harbor facilities, both new and existing.

(c) Recommend to the proper officials recreational restrictions in critical commercial navigation areas in order to promote public safety and expedite water transportation.

(d) Intercede on behalf of and represent the State of Mississippi in matters pertaining to the application of fees, tolls or user charges levied or contemplated to be levied against the water transportation industry engaged in either intrastate or interstate water commerce.

(e) Receive and use any federal, state or private funds, donations and grants made available for the development, use and expansion of water transportation resources of this state; provided that nothing herein shall be deemed to deny or prohibit any municipal, county, port authority or commission or other governmental or private agency or authority from accepting such donations and grants they are now authorized by law to receive.

(f) Assist all state agencies such as the Department of Economic and Community Development, the Department of Environmental Quality, and others on any matters pertaining to and concerning the water transportation industry.

(g) Compile and provide, where necessary, the capabilities of the Mississippi ports and harbor facilities with respect to equipment, systems or types of products handled, economic benefits, job creation, capital investments, and other pertinent data, including studies and planning for the expansion to further the development of the facilities and the water transportation industry in general.

(h) Provide, where necessary, any and all information and data, both individually and/or collectively, to the Legislature, through the Executive Director of the Mississippi Department of Transportation, for the ports and waterways industry within the state.

(i) Assist in the formation and presentation of any legislation to promote the development and growth of the waterway industry in the State of Mississippi.

No provision of this section shall be construed to give any state agency control over local port commissions or authorities or change any existing laws that such port commissions or authorities presently enjoy to conduct and develop the water transportation industry, and such existing laws shall not be preempted by this section. No provision of this section shall be construed to authorize any diversion from local port commissions or authorities of fees, funds, donations, grants or monies to which such commissions or authorities are otherwise entitled.

SOURCES: Laws, 1994, ch. 411, § 2, eff from and after passage (approved March 15, 1994).

§ 65-1-21. District offices.

(1) The permanent district offices for the Office of Highways of the Mississippi Department of Transportation and for the repair and housing of the equipment and vehicles of the department provided for in paragraph (m) of Section 65-1-8, Mississippi Code of 1972, shall be at the following locations:

(a) For the Northern District: At or near Batesville and at or near Tupelo.

(b) For the Central District: At or near Yazoo City and at or near Newton.

(c) For the Southern District: At or near McComb and at or near Hattiesburg.

(2) The Northern District Office at or near Tupelo is designated and shall be known as the “Roy Clark Adams District Office.” The Department of

Transportation shall erect and maintain an appropriate sign or placque designating such office.

SOURCES: Codes, 1942, § 8038.7; Laws, 1950, ch. 389; Laws, 1992, ch. 496, § 11; Laws, 1995, ch. 347, § 1, eff from and after July 1, 1995.

§ 65-1-23. Testing laboratory, machine shops, etc.

The State Highway Commission is hereby authorized and empowered, in its discretion, to erect and construct upon the land hereinafter described a testing laboratory, machine shops, and other necessary buildings, and to expend for such purpose an amount not to exceed Three Hundred Thousand Dollars ($300,000.00) out of any funds which may be available for such purpose in the state highway fund.

The State Building Commission is hereby authorized, empowered, and directed to select a suitable tract of land, ten acres in area, from any state-owned lands located in or near the City of Jackson, Mississippi, and not now being used for public purposes. The laboratory shops and other buildings specified in this section shall be erected on the land so selected, which said land is hereby set aside and allocated to the State Highway Commission for the purposes herein specified.

SOURCES: Codes, 1942, § 8038.5; Laws, 1946, ch. 369; Laws, 1948, ch. 332, § 18.

Editor's Note — Section 31-11-1 provides that the terms "State Building Commission" and "Building Commission" wherever they appear in the laws of Mississippi shall be construed to mean the Governor's Office of General Services.

Section 7-1-451 provides, however, that wherever the term "Office of General Services" appears in any law, it shall mean the Department of Finance and Administration.

Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

ATTORNEY GENERAL OPINIONS

This section provides for the granting of rights-of-way across sixteenth section lands. Cheney, June 4, 1999, A.G. Op. #99-0231.

In view of the overriding public interest in the carrying out of the purposes of the sixteenth section trust, where the Mississippi Department of Transportation obtains a right of way for a highway that runs across sixteenth section land and subsequently wants to cut the timber in the median of that highway, the timber involved would be harvested by the school board and the proceeds thereof used to support the public schools. Cheney, June 4, 1999, A.G. Op. #99-0231.

§ 65-1-25. Contract for maintenance of connections on highways near state boundaries.

The Mississippi Transportation Commission is hereby authorized and empowered to enter into or ratify agreements with the transportation departments of the adjoining states for the construction or maintenance, or both, of connections on any part of the interstate highway system, state designated highway system or state aid road system at or near the boundaries of the State of Mississippi, the cost of such construction and maintenance to be apportioned between the states according to the benefits to be derived by each of the states as determined by such agreements.

The powers conferred by this section are supplemental to the powers of the commission now provided by law.

SOURCES: Codes, 1942, § 8038.2; Laws, 1958, ch. 374, §§ 1, 2; Laws, 1995, ch. 396, § 1, eff from and after passage (approved March 15, 1995).

Cross References — Powers and duties of the Transportation Commission, generally, see § 65-1-8.

ATTORNEY GENERAL OPINIONS

A county's conventional authority over its public roads does not include the authority to do road work in another state on a road which lies partially in the State of Mississippi; however, the county may wish to explore the use of a Regional Economic Alliance to pursue the project. Chamberlin, Jan. 29, 2004, A.G. Op. 03-0643.

§ 65-1-27. Contract for maintenance of connections between interstate and state system highways and county roads or streets.

The Mississippi Transportation Commission is hereby authorized and empowered to enter into or ratify cooperative agreements with the various counties and municipalities in any county through which any of the highways on the interstate highway system, the state designated highway system or the state aid road system may traverse for the construction or maintenance, or both, of connections between such systems and county roads or streets of the municipalities, or interconnections between such systems, the cost of the construction and maintenance of such connections to be apportioned between the Transportation Commission and the county or municipality according to the benefits to be derived by each as determined by such agreement or agreements.

The powers conferred by this section are supplemental to the powers of the commission now provided by law.

SOURCES: Codes, 1942, § 8038.6; Laws, 1958, ch. 375, §§ 1, 2; Laws, 1995, ch. 396, § 2, eff from and after passage (approved March 15, 1995).

§ 65-1-29. Contract with the United States in flood control, drainage, and National Aeronautics and Space Agency projects.

The authority granted the State Highway Commission under provisions of this chapter, shall include the right to enter into agreements with the United

States government, or any agency thereof, for the alteration, relocation, reconstruction, or abandonment of state highways or any portion thereof, and conveyance of whatever rights and interests the state owns in property acquired for the purposes of said statutes, or any portion or interest thereof, where the same are necessary for the construction of flood control, navigation, drainage, or National Aeronautics and Space Agency projects approved and adopted by the United States government or any agency thereof.

Upon proper authorization by the State Highway Commission, the director of the State Highway Department is hereby empowered to execute a quitclaim deed selling and conveying the above rights and interests. Said deed shall be delivered to the purchaser upon the payment of the consideration agreed upon, and such consideration shall be deposited in the State Treasury to the credit of the State Highway Fund.

Such agreements and conveyances shall be upon a consideration deemed reasonable by the State Highway Commission and the agency of the United States government affected, provided that no part of this section is intended to alter or change in any way the existing immunity from certain actions of the state or the United States.

The consideration above shall include the expense of creating and maintaining any necessary detours, and the same shall be created and maintained as provided in the above mentioned agreement.

SOURCES: Codes, 1942, § 8038.3; Laws, 1948, ch. 337, §§ 1-4; Laws, 1950, ch. 424, § 2 (subd. 1); Laws, 1963, 1st Ex. Sess. ch. 21, eff from and after passage (approved March 2, 1963).

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation, and whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 65-1-31. Certain roads located on levees as temporary state highways.

Whereas, the public convenience requires that certain roads located on levees or within the boundaries of flood control districts created and presently maintained by the federal government, or other governmental authorities, be taken over temporarily by the State Highway Commission, and whereas, the public purpose for which said flood control districts were established requires that such roads be limited to certain widths and restrictions in the public interest, it is the sense of the legislature that the State Highway Commission should be authorized to take over and maintain such roads as temporary state highways, subject to the restrictions imposed by the governmental authorities establishing such flood control districts.

The State Highway Commission, therefore, is hereby authorized to take over and maintain as temporary state highways, for such period and under such terms and conditions as said highway commission may in its discretion prescribe, any road designated by the legislature as a state highway and located on the levee of a flood control district, and in so doing shall not be required to obtain a right of way of more than thirty feet on such type of road, may permit the use of cattle gaps and fencing thereon, and may accept from the federal authorities or other governmental unit having jurisdiction over such flood control district an easement for said road.

The purpose of this section is to enable the state to take over temporarily for maintenance roads designated as state highways located on levees and with less than sixty feet right of way.

SOURCES: Codes, 1942, § 8038.4; Laws, 1952, ch. 310, §§ 1-3.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

ATTORNEY GENERAL OPINIONS

The Mississippi Department of Transportation (MDOT) has the duty to maintain portion of Highway 465 which is a substandard road on a levee until such time as the legislature removes it from the state highway system or enacts legislation which otherwise ends the responsibility of MDOT to maintain it. The Mississippi Highway Patrol is required to enforce traffic laws on Highway 465 as provided in Section 45-3-21. Pace, Aug. 7, 2006, A.G. Op. 06-0285.

§ 65-1-33. Publicly owned ferries.

The State Highway Commission is hereby authorized to take over, maintain, and operate, as a part of the state highway system under its jurisdiction, any ferry now owned by and operated by, for, or under the authority of any county, county district, or municipality in this state where such ferry is located upon, or is a necessary link of, any designated state highway being maintained by the commission, if such county, county district, or municipality will transfer to said commission all property, real and personal, used by it in the operation of such ferry. In event any such ferries be so taken over by the commission, no toll or fee shall be charged for the use thereof by the public, and all costs of operation and maintenance shall be paid out of the State Highway Maintenance Fund.

Any county, county district, or municipality in this state now owning a ferry which the State Highway Commission may desire to take over under the provisions of this section is hereby authorized to transfer to the State Highway Commission any and all property, real and personal, used by it in the operation of such ferry, without further consideration than the acceptance of the same for public use, pursuant to an order of its governing authority. Any such property so taken over by the commission which may thereafter become unnecessary to the maintenance of traffic over the highway may be disposed of by the commission, in its discretion, and the proceeds paid into the State Highway Maintenance Fund.

SOURCES: Codes, 1942, § 8021-01; Laws, 1944, ch. 301, §§ 1, 2.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

Cross References — Ferries generally, see §§ 65-27-1 et seq.

Ferries operated by certain counties, see §§ 65-29-1 et seq.

§ 65-1-35. Roads leading to reactivated air bases.

The State Highway Commission is hereby authorized and directed to take over for maintenance and construction, with its own funds, any road formerly maintained as a part of the state highway system leading to an air base, which air base is to be reactivated.

SOURCES: Codes, 1942, § 8021.9; Laws, 1958, ch. 382.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 65-1-37. Driveways of certain institutions.

The Mississippi Transportation Commission is hereby authorized and empowered to have the Mississippi Department of Transportation construct, repair and maintain the driveways and streets on the grounds of the universities and colleges under the jurisdiction of the Board of Trustees of the State Institutions of Higher Learning, state, and/or county supported junior colleges, the state hospitals, and institutions under the jurisdiction of the Board of Trustees of Mental Institutions, the Board of Trustees of the Columbia Training School and the Oakley Youth Development Center, the Mississippi Schools for the Deaf and Blind, and the Mississippi Department of Wildlife, Fisheries and Parks in the manner provided herein, including bypasses to connect said driveways and streets with roads on the state highway system, and the main thoroughfare running east and west through the grounds of the Mississippi Penitentiary, provided said institutions obtain the necessary rights-of-way, said institutions being hereby authorized so to do.

The Transportation Commission and the governing boards of said institutions shall enter into an agreement prior to undertaking any of the work mentioned in the first paragraph of this section, and said agreement shall be based on the Transportation Department's furnishing equipment, equipment operators, skilled labor, supervision, and engineering services, and the governing bodies of the aforementioned institutions shall furnish material, supplies and common labor. This agreement shall further provide for reimbursement of the Mississippi Department of Transportation, in full, for the expenditures incurred in the construction, repair and maintenance of driveways and streets at the institutions hereinabove mentioned, such reimbursement to be made directly to the Mississippi Transportation Commission from the institutions. Upon the execution of an agreement as set out herein, the Mississippi Department of Transportation may provide all the necessary engineering, supervision, skilled labor, equipment, and equipment operators to perform such work.

SOURCES: Codes, 1942, § 8038.9; Laws, 1954, ch. 272, §§ 1-3(¶¶ 1-3); Laws, 1960, ch. 365; Laws, 1975, ch. 341; Laws, 1981, ch. 464, § 5; Laws, 2000, ch. 516, § 129; Laws, 2010, ch. 554, § 11, eff from and after July 1, 2011.

Amendment Notes — The 2010 amendment, effective July 1, 2011, substituted "the Oakley Youth Development Center" for "Oakley Training School" in the middle of the first paragraph.

Cross References — Junior colleges, see §§ 37-29-1 et seq.

Board of Trustees of the State Institutions of Higher Learning, generally, see §§ 37-101-1 et seq.

State Mental Institutions, see §§ 41-17-1 et seq.

Mississippi Schools for the Deaf and Blind, see §§ 43-5-1 et seq.

Columbia Training School no longer operating as secure training school for juvenile delinquents, see § 43-27-39.

Mississippi Department of Wildlife, Fisheries and Parks, see §§ 55-3-31 et seq.

Mississippi Department of Transportation to construct, repair and maintain driveways and streets on grounds of universities and colleges under jurisdiction of Board of Trustees of the State Institutions of Higher Learning, see § 65-1-37.

§ 65-1-39. Maintenance of roads on Australia Island.

The State Highway Commission is hereby authorized and empowered to take over, assume jurisdiction of, maintain, repair, and improve the public highways under the jurisdiction of the department of highways of the State of Louisiana on Australia Island, and to enter into such agreements with the department of highways of the State of Louisiana as the said State Highway Commission shall deem necessary, proper, and advisable, provided that the State Highway Commission of Mississippi is reimbursed for the expenditures incurred in the maintenance, repair, and improvement of said roads.

The powers conferred by this section are supplementary to the powers of said commission now provided by law and are not intended in any wise to conflict with the same.

SOURCES: Codes, 1942, § 8038.8; Laws, 1955, Ex. Sess. ch. 69, §§ 1, 2.

§ 65-1-41. Roads serving industrial sites and port areas.

The Mississippi Department of Economic Development is hereby authorized and directed to select and designate certain links of roads or highways to connect any and all approved, acceptable and selected industrial sites that may be located at any point not now accessible to adequate highways and road facilities, and shall issue a certificate of public convenience and necessity to the effect that such designated and selected link of highway or road should be constructed in order to encourage and promote the industrial development of any port or harbor area or other industrial site, and shall immediately file such certificate of public convenience and necessity with the Director of the Mississippi State Highway Commission. However, the Mississippi Department of Economic Development shall not select and designate any such link of road or highway until such time as the department shall have satisfactory evidence that an industry desires and intends to locate on such site, and that the location of such industry and the construction of such road or highway is economically feasible. Construction of any such road shall not begin until the location and construction of such industry is assured and contracts made between the industry and the local authority.

When a certificate of public convenience and necessity has been filed with the Director of the Mississippi State Highway Commission as herein required, the highway commission shall proceed to locate, survey and have constructed such link or highway or public road in such quality and standards as may be found to adequately serve such proposed industry.

The Mississippi Department of Economic Development shall not select or designate any link of public road or highway more than ten (10) miles long to connect any industrial site, harbor or port facility with any existing public road or highway, nor shall such board designate or select any link or links of road in an excess of a total of two hundred (200) miles of highways or public roads.

Any highway or public road selected, designated and constructed under the provisions of this section shall be constructed from the highway fund within which highway district such highway or road has been selected, designated and constructed.

The provisions of this section shall not be construed to alter, change or amend any other statutes of the State of Mississippi designating highways, state-aid roads or other public roads, and any limitations placed upon the total miles of such highways, state-aid roads, or public roads shall not be affected by the provisions of this section.

SOURCES: Codes, 1942, § 8021.8; Laws, 1957, Ex. Sess. ch. 16, §§ 1-5; Laws, 1989, ch. 524, § 26, eff from and after July 1, 1989.

Editor's Note — Laws, 1989, ch. 524, § 36, provides as follows:

"SECTION 36. The repeal or amendment of this act shall not reduce the terms of any tax reduction, special tax incentive or financial assistance agreed upon pursuant to official action by the Department of Economic Development, the State Tax Commission or other appropriate agency of the state or political subdivision thereof prior to the effective date of such repeal or amendment."

Section 57-1-54 provides that wherever the term "Mississippi Department of Economic Development" appears in any law the same shall mean the Department of Economic and Community Development.

§ 65-1-43. Costs and feasibility surveys for toll highways and bridges to offshore islands.

When it is deemed feasible and advisable to promote the tourist industry of the State of Mississippi by providing more attractions as would be available in development of offshore islands, the Mississippi State Highway Commission is authorized to make costs and feasibility surveys for toll highways and bridges to offshore islands.

The Mississippi Highway Commission is authorized to employ expert engineering and economic assistance for such surveys when it is deemed advisable by the commission. The State Highway Commission is limited to a maximum amount of fifty thousand dollars ($50,000.00) for the purpose of carrying out the provisions of this section.

In the event that any bonds are issued as a result of the feasibility surveys authorized under the provisions of this section, the State Highway Commission shall be reimbursed for all of the expenditures authorized herein, and said expenditures shall be paid from the first proceeds of any bond issue herein.

SOURCES: Codes, 1942, § 8038-11; Laws, 1962, ch. 441, §§ 1-4.

§ 65-1-44. Instruction course for weight and tax enforcement personnel.

Agents and employees of the Mississippi Department of Transportation who are charged with the enforcement of the weight laws and the motor vehicle privilege tax laws of this state pursuant to Sections 63-5-43 and 27-19-137, Mississippi Code of 1972, shall, as soon as practicable after being appointed enforcement personnel, and in order to continue serving as such, successfully complete a course of instruction at the Mississippi Law Enforcement Officers' Training Academy, which course shall be established by an agreement between the Mississippi Department of Transportation and the Commissioner of Public Safety pursuant to Section 45-5-7, Mississippi Code of 1972.

SOURCES: Laws, 1992, ch. 496, § 22, eff from and after July 1, 1992.

Editor's Note — Provisions substantially identical to those in § 65-1-44 were formerly contained in repealed § 27-3-14.

§ 65-1-45. Weight limitation on highways and bridges.

The State Highway Commission is hereby authorized and empowered to restrict or prohibit the use of any state highway or bridge or to reduce the allowable weight permitted on any state highway or bridge when, due to any special weather or other hazard, such highways or bridges have been weakened or when such highways have substandard surfacing or weak bridges due to any cause. Likewise, the board of supervisors of any county shall have the same regulatory powers as granted the highway department in this section. It shall be the duty of the State Highway Commission and the boards of supervisors of the counties to post sufficient warning on any highway or bridge restricted in any manner, so that such restriction may be understood by the operator of any vehicle. Any person who shall operate a vehicle on any highway, road, or bridge when such highway, road, or bridge is under restriction, in violation of such restriction, shall be guilty of a misdemeanor and shall be punished in accordance with the provisions of section 63-9-11, Mississippi Code of 1972, providing for the punishment of misdemeanors.

SOURCES: Codes, 1942, § 8271; Laws, 1958, ch. 501; Laws, 1960, ch. 409; Laws, 1963, 1st Ex. Sess. ch. 22; Laws, 1964, ch. 458, §§ 1, 2; Laws, 1964, 1st Ex. Sess. ch. 33, eff from and after passage (approved July 15, 1964).

Editor's Note — Laws, 1962, ch. 424, provides as follows:

"SECTION 1. Notwithstanding any other provisions of law to the contrary, it is hereby expressly provided and the Legislature so declares that the load limits on Mississippi Highway No. 35 from the Town of Vaiden in Carroll County to the City of Forest in Scott County shall be the same as the load limit on the United States designated highways intersected by said Mississippi Highway No. 35. Provided, however, that the provisions of this section shall only apply to the transportation of agricultural and poultry products."

Laws, 1964, ch. 459, provides as follows:

"SECTION 1. Notwithstanding any other provisions of law to the contrary, it is hereby expressly provided, and the Legislature so declares, that the load limits on Mississippi Highway No. 16 from the intersection of Highway 397 and Highway 16, west of the town of DeKalb, in Kemper County, to the Alabama line, shall be the same as the load limit on the United States designated highways. Provided, however, that the provisions of this section shall only apply to the transportation of agricultural and forestry products."

Laws, 1966, ch. 509, provides as follows:

"SECTION 1. Notwithstanding any other provisions of law to the contrary, it is hereby expressly provided, and the Legislature so declares, that the load limits on Mississippi Highway 37 from its intersection with Mississippi Highway 35 South of the Town of Raleigh in Smith County, Mississippi, to its intersection with U. S. Highway 84 in Covington County, Mississippi, shall be the same as the load limit on the United States designated highway intersected by said Mississippi Highway 37."

Laws, 1966, ch. 505, provides as follows:

"SECTION 1. Notwithstanding any other provisions of law to the contrary, it is hereby expressly provided, and the Legislature so declares, that the load limits on Mississippi Highway No. 16 from the intersection of Highway 397 and Highway 16, west of the Town of DeKalb, in Kemper County, to the Alabama line, shall be the same as the load limit on the United States designated highways. Provided, however, that the provisions of this section shall only apply to the transportation of the agricultural and forestry products and earthen and clay substances extracted from the soil of said county which may be used as raw materials for manufacturing purposes."

Laws, 1966 Ex Sess, ch. 38, provides as follows:

"SECTION 1. Notwithstanding any other provisions of law to the contrary, it is hereby expressly provided, and the Legislature so declares, that the load limits on Mississippi Highway No. 32 from the intersection of Highway 35 and Highway 32, east of the Town of Charleston, in Tallahatchie County, to the Oakland Interchange with Interstate Highway No. 55 in Yalobusha County, shall be the same as the load limit on the United States Interstate designated highways, provided, however, that said load limit shall not be increased until the completion of the bridge now under construction on the section of said Highway 32 described herein."

Cross References — Authority of state highway commission to supersede certain exceptions on gross weight limits of short-wheelbase trucks, see § 63-5-34.

ATTORNEY GENERAL OPINIONS

A County Board of Supervisors has the authority to prohibit full 80,000 loads of logs produced on "such places of production" from being transported by the "nearest route" if such nearest route has a low weight limit imposed on it by the county. Barrett, Dec. 5, 1997, A.G. Op. #97-0723.

The statute does not grant the Transportation Commission the authority to limit weights of vehicles traveling state highways solely for public safety reasons. Hall, Oct. 20, 2000, A.G. Op. #2000-0499.

RESEARCH REFERENCES

ALR. Power to limit weight of vehicle or its load with respect to use of streets or highways. 75 A.L.R.2d 376.

Am Jur. 7A Am. Jur. 2d, Automobiles and Highway Traffic §§ 183, 208.

5 Am. Jur. Proof of Facts 3d, Meteorological Conditions at a Particular Time and Place, §§ 1 et seq.

CJS. 60 C.J.S., Motor Vehicles § 32.

§ 65-1-46. Appeals Board; appeal of penalty for excess weight; judicial review.

(1) There is created an Appeals Board of the Mississippi Transportation Commission. If any person feels aggrieved by a penalty for excess weight assessed against him by an agent or employee of the Mississippi Department of Transportation pursuant to Section 27-19-89, he may apply to the Appeals Board.

(2) The members serving on the Appeals Board on April 7, 1995, shall continue to serve until July 1, 1995. On July 1, 1995, the Appeals Board shall be reconstituted to be composed of five (5) qualified people. The initial appointments to the reconstituted board shall be made no later than June 30, 1995, for terms to begin July 1, 1995, as follows: One (1) member shall be appointed by the Governor for a term ending on June 30, 1996, one (1) member shall be appointed by the Lieutenant Governor for a term ending on June 30, 1997, one (1) member shall be appointed by the Attorney General for a term ending on June 30, 1998, one (1) member shall be appointed by the Chairman of the State Tax Commission for a term ending on June 30, 1999, and one (1) member shall be appointed by the Executive Director of the Mississippi Department of Transportation for a term ending on June 30, 2000. After the expiration of the initial terms of the members of the reconstituted board, all subsequent appointments shall be made for terms of four (4) years from the expiration date of the previous term. Any member serving on the Appeals Board before July 1, 1995, may be reappointed to the reconstituted appeals board. Appointments to the board shall be with the advice and consent of the Senate; however, the advice and consent of the Senate shall not be required for the appointment of a person to the reconstituted appeals board for a term beginning on July 1, 1995, if such person was serving as a member of the

Appeals Board on June 30, 1995, and such person received the advice and consent of the Senate for that appointment.

(3) There shall be a chairman and vice chairman of the board who shall be elected by and from the membership of the board. Any member who fails to attend three (3) consecutive regular meetings of the board shall be subject to removal by a majority vote of the board. A majority of the members of the board shall constitute a quorum. The chairman, or a majority of the members of the board, may call meetings as may be required for the proper discharge of the board's duties. Members of the board, except a member who is an officer or employee of the Mississippi Department of Transportation, shall receive per diem in the amount authorized by Section 25-3-69, for each day spent in the actual discharge of their duties and shall be reimbursed for mileage and actual expenses incurred in the performance of their duties in accordance with the provisions of Section 25-3-41.

Application shall be made by petition in writing, within thirty (30) days after assessment of the penalty, for a hearing and a review of the amount of the assessment. At the hearing the Appeals Board shall try the issues presented according to the law and the facts and within guidelines set by the Transportation Commission. Upon due consideration of all the facts relating to the assessment of the penalty, the appeals board, except as otherwise provided under this section or under Section 27-19-89, may require payment of the full amount of the assessment, may reduce the amount of the assessment or may dismiss imposition of the penalty entirely. The Appeals Board shall dismiss in its entirety the imposition of any penalty imposed against the holder of a harvest permit if the permittee proves to the Appeals Board, by clear and convincing evidence, that the average load transported by the permittee during the permittee's last five (5) haul days immediately preceding the day upon which the penalty appealed from was assessed did not exceed eighty thousand (80,000) pounds. The Appeals Board shall reduce the penalty assessed against the holder of a harvest permit to a maximum of Two Cents (2¢) per pound of overweight if the permittee proves to the Appeals Board, by clear and convincing evidence, that the average load transported by the permittee during the permittee's last five (5) haul days immediately preceding the day upon which the penalty appealed from was assessed exceeded seventy-nine thousand nine hundred ninety-nine (79,999) pounds but did not exceed eighty-four thousand (84,000) pounds. The board shall make such orders in the matter as appear to it just and lawful and shall furnish copies thereof to the petitioner. If the Appeals Board orders the payment of the penalty, the petitioner shall pay the penalty, damages and interest, if any, within ten (10) days after the order is issued unless there is an application for appeal from the decision of the board as provided in the succeeding paragraph. Interest shall accrue on the penalty at the rate of one percent (1%) per month, or part of a month, beginning immediately after the expiration of the ten-day period.

If any person feels aggrieved by the decision of the Appeals Board, he may appeal the decision to the Chancery Court of the First Judicial District of Hinds County.

SOURCES: Laws, 1992, ch. 496, § 23; Laws, 1994, ch. 501, § 1; Laws, 1995, ch. 589, § 1, eff from and after passage (approved April 7, 1995).

Editor's Note — Section 27-3-4 provides that the terms "'Mississippi State Tax Commission,' 'State Tax Commission,' 'Tax Commission' and 'commission' appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue."

Section 27-3-4 provides that the terms "'Chairman of the Mississippi State Tax Commission,' 'Chairman of the State Tax Commission,' "Chairman of the Tax Commission' and 'chairman' appearing in the laws of this state in connection with the performance of the duties and functions by the Chairman of the Mississippi State Tax Commission, the Chairman of the State Tax Commission or the Chairman of the Tax Commission shall mean the Commissioner of Revenue of the Department of Revenue."

RESEARCH REFERENCES

Am Jur. 1A Am. Jur. Pl & Pr Forms (Rev), Administrative Law, Forms 181-188 (administrative appeal and review of determinations).

CJS. 73A C.J.S., Public Administrative Law and Procedure §§ 305-312.

§ 65-1-47. Control of highways; eminent domain.

The State Highway Commission shall have complete authority to issue rules, regulations and orders under which the State Highway Department shall have control and supervision, with full power and authority under rules, regulations and orders issued by the commission, to locate, relocate, widen, alter, change, straighten, construct or reconstruct any and all roads on the state highway system heretofore or hereafter taken over by it for maintenance as a part of such system, and shall have full and complete authority for regulating the making of all contracts, surveys, plans, specifications and estimates for the location, laying out, widening, straightening, altering, changing, constructing, reconstructing and maintaining of and the securing of rights-of-way for any and all such highways, and to authorize the employees of the State Highway Department to enter upon private property for such purposes.

The State Highway Department, under the rules, regulations and orders spread upon the minutes of the State Highway Commission, is authorized and empowered to obtain and pay for the rights-of-way of such width as it may determine to be necessary for such highway or for any alteration or change therein or relocation thereof by agreement with the owners of such lands. Rights-of-way of not less than sixty (60) feet wide shall be acquired except within the boundaries of towns and cities where unusual conditions exist, in which case the commission is authorized and empowered to have obtained and paid for such rights-of-way of such width as it may determine to be necessary. Said commission may have condemned any and all land or other property needed for such purposes or either of them; may have condemned or acquired by gift or purchase lands containing road building materials and develop and operate pits, mines or other properties for the purpose of obtaining road material; and have condemned or acquired by gift or purchase lands necessary for the safety and convenience of traffic.

Said commission, in case an agreement cannot be reached with the owners of land containing road building materials or of any additional land necessary for widening any existing public highways, for laying out a new public highway, or for changing the route of an existing public highway, as provided in the foregoing part of this section, shall be authorized to have condemned any land needed for either of said purposes, as is fully set forth in this section. The proceedings to acquire such lands by a condemnation shall be in conformity with the statutes on the subject of "eminent domain," the power of eminent domain being hereby expressly conferred upon said commission for such purposes. Such proceedings shall take precedence over all other causes not involving the public interest in all courts and shall be given preference to the end that construction and reconstruction of highways hereunder may not be unreasonably delayed. The amount of such compensation and damages, if any, awarded to the owner in such proceedings shall be paid out of the State Highway Fund. The authorities constructing such highway, under the authority as provided in this section, shall use diligence to protect growing crops and pastures and to prevent damage to any property not taken. So far as possible, all rights-of-way shall be acquired or contracted for before any construction contract work order is issued.

The estate which the State Highway Commission is authorized to acquire by deed or condemnation as set forth above shall include all rights, title and interest in and to the lands or property being acquired, excepting and excluding all the oil and gas therein or thereunder and such other rights, title or interest which are expressly excepted and reserved to the property owner, his successors, heirs or assigns in the deed or condemnation petition by which the property is acquired. Any property interest acquired may be in unlimited vertical dimension. The State Highway Commission shall decide what right, title and interest are necessary for highway purposes on each particular project and may, by order on its minutes, authorize its agents to expressly except all or any others.

SOURCES: Codes, 1930, § 4998; 1942, § 8023; Laws, 1930, ch. 47; Laws, 1948, ch. 332, § 8; Laws, 1949, Ex. Sess. ch. 6, § 12; Laws, 1981, ch. 464, § 6; Laws, 1987, ch. 406, eff from and after July 1, 1987.

Cross References — Constitutional provision requiring compensation for taking of private property, see Miss. Const. Art. 3, § 17.

Appointment of additional assistant attorneys general to handle legal affairs of highway commission, see § 7-5-13.

Eminent domain generally, see §§ 11-27-1 et seq.

Exercise of right of immediate possession by State Highway Commission, see §§ 11-27-81 et seq.

Powers and duties of the highway commission, generally, see § 65-1-8.

Conveyance of easements for highway purposes, see § 65-1-49.

Applicability of this section to acquisition of rights-of-way in municipalities, see § 65-1-75.

JUDICIAL DECISIONS

I. Under Current Law.

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7. In general.
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I. Under Current Law.

1. In general.

A court is without power to close a public road in private litigation between individuals unless such action is predicated upon a finding that there has been a valid order of the Board of Supervisors closing the road, spread upon its minutes, if it is a county road, or that similar official action has been taken by the State Highway Commission and is reflected by its official records, if it is a state road or highway. Barrett v. Pilgrim, 317 So. 2d 382 (Miss. 1975).

The Mississippi State Highway Commission can take by eminent domain in fee simple all rights, title, and interests in property that are necessary for the authorized purposes of the commission, including rights, title, and interests to timber, but excepting and excluding all oil and gas. Roberts v. Mississippi State Hwy. Comm'n, 309 So. 2d 156 (Miss. 1975).

Taking of property alongside a highway for the purpose of constructing a weighing scale to enforce the regulations regarding weights of loads and vehicles is within the contemplation of the eminent domain statutes. Roberts v. Mississippi State Hwy. Comm'n, 309 So. 2d 156 (Miss. 1975).

Diminution in the flow of traffic past property by changes in the highway system is not such a taking as to require compensation, though the value of the property may thereby be diminished. Morris v. Mississippi State Hwy. Comm'n, 240 Miss. 783, 129 So. 2d 367 (1961).

2. Discretionary power of commission.

Taking of the school's property in order to expand a state highway was necessary, under Miss. Code Ann. § 65-1-47, for the safety and convenience of the traveling public, and this constituted a proper use of the transportation commission's eminent domain power. St. Andrew's Episcopal Day Sch. v. Miss. Transp. Comm'n, 806 So. 2d 1105 (Miss. 2002).

An order by the highway commission designating the name of the record title owner and his successors in title of the land sought to be acquired was sufficient to authorize proceedings in eminent domain in which all of the persons claiming an interest should have been named. Mississippi State Hwy. Comm'n v. Arndt, 304 So. 2d 281 (Miss. 1974).

The state highway commission has the power to condemn school property. Harrison County Sch. Bd. v. State Hwy. Comm'n, 284 So. 2d 50 (Miss. 1973).

In an eminent domain proceeding, the state highway commission is bound by its appraiser, and a judgment which is less than the commission's appraiser's estimate will be increased by the amount of difference. Jackson County Dev., Inc. v. Mississippi State Hwy. Comm'n, 262 So. 2d 416 (Miss. 1972).

The determination of whether the taking of land for highway purposes is necessary is within the discretion of the commission, and the courts will not interfere unless fraud or a clear abuse of this discretion is shown. Mississippi State Hwy. Comm'n v. Jacob, 192 So. 2d 260 (Miss. 1966).

Statutes conferring upon the state highway commission the power of eminent domain do not limit the power to the taking of such property as is needed or necessary, inasmuch as the effect of this legislation is to vest the broad discretion in the highway commission in selecting its routes and other details. Erwin v. Mississippi State Hwy. Comm'n, 213 Miss. 885, 58 So. 2d 52 (1952).

3. Access to highway.

Where the state highway commission constructed a nonaccess highway outside the right of way of an old highway, an abutting property owner, who improved his property for commercial purposes knowing that the permit that he had obtained from the state highway commission to construct direct access roads into the main traveled lanes of the highway were temporary, and without receiving any assurances that such access roads would be permitted to remain, could not recover damages for the improvements made upon his property. Harreld v. Mississippi State Hwy. Comm'n, 234 Miss. 1, 103 So. 2d 852 (1958).

In a proceeding to condemn a strip of land lying along the side of a limited-access highway to be used as a service or frontage road which would be connected with the lanes of travel on the main highway at interchanges, where the state highway commission had determined that abutting property owners should retain the right of direct access to the service or frontage road, and that such right should be excepted from the condemnation petition and reserved to the abutting property owners, an abutting property owner was not entitled to have damages assessed on the theory that she would be denied access to such service or frontage road. Muse v. Mississippi State Hwy. Comm'n, 233 Miss. 694, 103 So. 2d 839 (1958).

4. Right to enter upon property.

Employees of the commission are authorized by this section to enter upon private property, and it was error to permit landowners to offer proof that the appraiser for the commission was a "rank trespasser" by going upon the land for purposes of appraisal without the consent of the owners. Mississippi State Hwy. Comm'n v. Ratcliffe, 251 Miss. 785, 171 So. 2d 356 (1965).

5. Executory interests.

The negotiated conveyance in lieu of eminent domain of a portion of the property used as a church and cemetery by the occupying church organization to the state highway commission for highway purposes did not constitute an abandonment of the conveyed property for the purpose for which it was originally granted so as to give the holders of a mere possibility of reverter therein a cause of action against the highway department, particularly where there was no evidence that the remainder of the property would not continue to be used for the purposes for which it was conveyed. Patrick v. Mississippi State Hwy. Comm'n, 184 So. 2d 850 (Miss. 1966).

Compensation should be made to the owners of executory interests upon a defeasible fee. Hemphill v. Mississippi State Hwy. Comm'n, 245 Miss. 33, 145 So. 2d 455 (1962).

6. Appeals.

The state highway commission does not waive its right to appeal a condemnation proceeding by taking physical possession without first paying damages. Mississippi State Hwy. Comm'n v. Rogers, 236 Miss. 800, 112 So. 2d 250 (1959).

An appeal from an interlocutory decree of a chancellor refusing to grant a preliminary injunction against the state highway commission enjoining state highway commission from proceeding further with certain eminent domain proceedings, is entitled to be heard as a preference case and to be advanced on the supreme court docket. Howell v. Howell, 213 Miss. 141, 56 So. 2d 392 (1952).

II. Under Former Law.

7. In general.

Court cannot give language of statutes respecting highway commission's powers restricted or over-technical interpretation. Trahan v. State Hwy. Comm'n, 169 Miss. 732, 151 So. 178 (1933).

8. Change in location of, or abandonment of road as, state highway.

Under statute designating state highway, highway commission could follow old line of road wherever practicable and depart from old line to straighten road or find better location. Trahan v. State Hwy. Comm'n, 169 Miss. 732, 151 So. 178 (1933).

Highway commission could change location and fix length of state highway in conjunction with Federal-aid authorities, to shorten its mileage and eliminate two grade crossings. Trahan v. State Hwy.

Comm'n, 169 Miss. 732, 151 So. 178 (1933).

Taxpayers owning property abutting on State highway to be abandoned for shorter route could not challenge validity of highway statute, since there was no legal damage to them by removal of state highway so long as there remained public highway, maintained as such, in substantially same location. Trahan v. State Hwy. Comm'n, 169 Miss. 732, 151 So. 178 (1933).

Abutting property owners seeking injunction were held to have sustained no legal injury, where highway commission abandoned part of state highway for shorter and safer route, since commission acted within limits of rightful authority. Trahan v. State Hwy. Comm'n, 169 Miss. 732, 151 So. 178 (1933).

There is no law preventing board of supervisors from retaking public road abandoned as State highway. Trahan v. State Hwy. Comm'n, 169 Miss. 732, 151 So. 178 (1933).

9. Taking of property.

The state highway commission acquires only an easement or right of way in land condemned for highway purposes; mineral rights are not included. Whitworth v. Mississippi State Hwy. Comm'n, 203 Miss. 94, 33 So. 2d 612 (1948).

The estate acquired by the highway commission for highway purposes is measured by the language of the statutes and not of the deeds. Whitworth v. Mississippi State Hwy. Comm'n, 203 Miss. 94, 33 So. 2d 612 (1948).

Whatever reservation the state highway commission could lawfully allow in a deed from the owner, they may allow and stipulate in the petition for condemnation, and when so stipulated, the terms thereof are as binding upon the commission as if the same stipulations had been contained in a deed from the owner, as against the contention that inasmuch as the section provides for the condemnation of the land, the interest condemned must be of the entire land without any reservation whatever. Dantzler v. Mississippi State Hwy. Comm'n, 190 Miss. 137, 199 So. 367 (1941).

A condemnor of a right of way for a public road does not take the entire fee in the land, all other rights consistent with the existence of the easement for road purposes remaining in the original owner. Dantzler v. Mississippi State Hwy. Comm'n, 190 Miss. 137, 199 So. 367 (1941).

Code 1942, § 8023 required as a condition precedent to a condemnation of land by the highway commission that an attempt first be made to agree with the owner; and while this effort had to be in good faith and on reasonable terms, the attempt need not have been pursued further than to develop the fact that an agreement was impossible at any price which the condemning party was willing to pay. Dantzler v. Mississippi State Hwy. Comm'n, 190 Miss. 137, 199 So. 367 (1941).

The charge of arbitrariness or want of good faith on the part of the highway commission as regards an offer made by it for a strip of land for the construction of a highway, was refuted where it was evident from the record in the eminent domain proceeding that no prolongation of the effort of the commission to agree with the owner would have produced an agreement, save on terms which the commission would have regarded as requiring an unjust payment out of public funds which it was their duty to endeavor to conserve, and the verdict in the eminent domain proceedings awarding the sum offered by the commission could be pointed to as a sufficient refutation of the charge. Dantzler v. Mississippi State Hwy. Comm'n, 190 Miss. 137, 199 So. 367 (1941).

Evidence in eminent domain proceeding of the price paid in settlement of other condemnation proceedings or the sum paid by the condemnor for similar lands, even if proceedings had not been begun is not admissible, such payments being in the nature of compromise to avoid the expense and uncertainty of litigation and not fair indication of market value. Dantzler v. Mississippi State Hwy. Comm'n, 190 Miss. 137, 199 So. 367 (1941).

Nine thousand dollars for one hundred and one acres of land was not excessive. Mississippi State Hwy. Comm'n v. Williamson, 181 Miss. 399, 179 So. 736 (1938).

Landowners were entitled to recover compensation from state highway commission for strip of land taken for state highway without condemnation or compensation, as against contention of commission that it was not at time of taking of land a corporation so that it could be sued, where commission was thereafter incorporated, since trespass was continuing one so that cause of action arose when commission was incorporated. State Hwy. Comm'n v. Flint, 177 Miss. 830, 172 So. 299 (1937).

In eminent domain proceeding, where court gave numerous instructions fixing measure of damages as difference between fair market value of land and buildings before taking and value of what remained after taking, inconsistent instruction fixing replacement value as measure of damages was reversible error, where jury awarded approximately highest estimate, according to replacement value. Mississippi State Hwy. Dep't v. Blackburn, 172 Miss. 554, 160 So. 73 (1935).

10. Liability for damages.

State highway commission was liable to a property owner for damage to her land, resulting from the use thereof for parking its machinery, during the course of road construction and as an essential part of its work, over the protest of the landowner. State Hwy. Comm'n v. Mason, 192 Miss. 576, 6 So. 2d 468 (1942).

State highway commission was not liable for negligence of its engineers in so constructing ditches on sides of highway as to cause water of creek to overflow farm lands. State Hwy. Comm'n v. Knight, 170 Miss. 60, 154 So. 263 (1934).

11. Miscellaneous.

Owner of land is not liable for the death of employee of state highway department, who entered under authority of former section and Code 1942, $2776, irrespective of his negligence, provided it did not amount to willful or wanton negligence since these sections merely divest intruder of penalties of trespasser and confer no greater rights than belong to licensee. Westmoreland v. Mississippi Power & Light Co., 172 F.2d 643 (5th Cir. 1949).

Where a state highway employee, while operating a long drilling auger to test the subsoil of a proposed highway route across a cultivated field at a point in the right of way of an electric company, was electrocuted when the auger, on being lifted, came in contact with a high voltage wire thirteen and a half feet from the ground, neither the electric company, which, so far as shown, had no knowledge of the presence of the highway employee, nor the representative of the state highway department, through whom he had been engaged, was liable for his death, the statute divesting the intruder of the penalties and responsibilities of a trespasser by justifying his act, but not giving him any greater rights than those belonging to a licensee, and the duty of the owner of the land to guard against injury in such cases being governed by the rules applicable to trespassers. Roberts v. Mississippi Power & Light Co., 193 Miss. 627, 10 So. 2d 542 (1942).

The state highway commission was liable to suit by a contractor with whom the commission contracted to construct a highway for breach of the contract in failing properly to furnish rights of way as provided therein, proximately causing such contractor additional expense in maintaining the work, the breach and its proximate consequences having occurred during and directly in and about the actual work of the performance of the contract, and against the contention that the commission was subject to suit by a contractor only for any failure by the commission to pay the contractor for any labor done or materials furnished by the contractor under and in accordance with the terms of his contract with the commission for the road construction work at the sums or prices specifically stipulated in the contract. Wunderlich v. State Hwy. Comm'n, 183 Miss. 428, 184 So. 456 (1938).

Designation of state highway by giving principal points between Tennessee and Louisiana was sufficient. Trahan v. State Hwy. Comm'n, 169 Miss. 732, 151 So. 178 (1933).

ATTORNEY GENERAL OPINIONS

School district was without authority to expend funds for construction of turn lane on state highway; responsibility is within purview of Mississippi Department of Transportation pursuant to Section 65-1-47. Everett, Feb. 11, 1994, A.G. Op. #94-0037.

The Mississippi Transportation Commission may, but is not required to, withhold retainage in contracts for the construction, improvement, or maintenance of roads and bridges. Kopf, Dec. 3, 1999, A.G. Op. #99-0641.

RESEARCH REFERENCES

ALR. Interest on damages for period before judgment for injury to, or detention, loss, or destruction of property. 36 A.L.R.2d 337.

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 67 et seq., 198 et seq.

9 Am. Jur. Pl & Pr Forms (Rev), Eminent Domain, Form 31.1 (Complaint, petition, or declaration — For condemnation — By state agency — For state transportation facility).

9 Am. Jur. Pl & Pr Forms (Rev), Eminent Domain, Forms 31-33 (forms of complaint, petition or declaration for condemnation of land for highways).

9 Am. Jur. Pl & Pr Forms (Rev), Eminent Domain, Forms 311 et seq. (remedies and defenses of owners).

7B Am. Jur. Legal Forms 2d, Eminent Domain § 97:17. (offer to purchase land prior to condemnation).

4 Am. Jur. Proof of Facts, Eminent Domain, Proof No. 1 (proving damages for taking of land).

8 Am. Jur. Trials 57, Condemnation of Rural Property for Highway Purposes.

CJS. 29A C.J.S., Eminent Domain §§ 30 et seq., 157.

§ 65-1-49. Easements for highway purposes.

The conveyance or assignment of easements for highway purposes may be made by the owner thereof to the Mississippi State Highway Commission or the board of supervisors of any county for highway purposes. All actions by any person owning any interest in the land involved in such conveyance or assignment accruing as a result thereof must be brought within three years after the date of such conveyance or assignment; provided, however, that the land involved is actually used for highway purposes or notice is posted thereon that it will be used for highway purposes within said three-year period, otherwise said period shall be six years from the date of such conveyance or assignment.

The procedure provided hereby with reference to the conveyance or assignment of easements is supplemental to all rights and powers now authorized for and existing under the present law in said commission and boards, and is not intended as a limitation on same in any manner.

SOURCES: Codes, 1942, § 8038.1; Laws, 1950, ch. 410, §§ 1, 2.

Cross References — Commission's eminent domain power, see § 65-1-47.

JUDICIAL DECISIONS

1. In general.

A right-of-way easement granted to the Mississippi State Highway Commission for a specific public right-of-way of a certain highway ceased to exist when the commission determined that a portion of that easement was no longer needed by the public. Thus, the commission could not convey the fee simple title to the property, but could only abandon its easement. Mississippi State Hwy. Comm'n v. McClure, 536 So. 2d 895 (Miss. 1988).

A landowner can convey, by instrument, an easement to the Highway Department. Mississippi State Hwy. Comm'n v. Wood, 487 So. 2d 798 (Miss. 1986).

This section does not limit the time in which a granter of land prior to the assignment of a highway easement by his granter may claim damages for wrongful taking. Mississippi State Hwy. Comm'n v. Parker, 249 Miss. 22, 162 So. 2d 852 (1964).

RESEARCH REFERENCES

Am Jur. 7A Am. Jur. Legal Forms 2d, Easements and Licenses in Real Property § 94:62 (construction and maintenance of highway).

§ 65-1-51. Land adjacent to highway rights of way; wetlands.

The Mississippi Transportation Commission may acquire by gift, purchase or otherwise, and may have the Mississippi Department of Transportation improve and maintain strips of land necessary for the restoration, preservation and enhancement of scenic beauty adjacent to the state highway rights-of-way. The commission may acquire and have the Transportation Department develop publicly owned and controlled rest and recreation areas and sanitary and other facilities within or adjacent to the highway right-of-way reasonably necessary to accommodate the traveling public.

The Mississippi Transportation Commission, in its discretion, may acquire by gift, purchase or otherwise, including the exercise of eminent domain, public or privately owned wetlands and other lands suitable for creation as wetlands for the purpose of mitigating wetland losses and replacing those wetlands purchased and damaged or eliminated by development and use, on a basis not to exceed that required by the Federal Highway Administration as a condition for receiving federal aid funds, provided that some governmental agency or approved organization agrees, without compensation, to accept title to the lands acquired and maintain such lands as wetlands in perpetuity. However, the commission shall replace those coastal wetlands purchased and damaged or eliminated by development and use on the basis required by the "Coastal Wetlands Protection Law" and regulations promulgated thereunder by the Mississippi Commission on Marine Resources.

The Mississippi Transportation Commission, in its discretion, may acquire by gift, purchase or otherwise, wetlands credits from an approved organization with a plan establishing a wetland mitigation bank. The commission shall, if possible, acquire credits on wetlands within the State of Mississippi before acquiring credits on wetlands located outside the State of Mississippi.

SOURCES: Codes, 1942, § 8023.3; Laws, 1966, ch. 498, § 1; Laws, 1981, ch. 398, § 1; Laws, 1981, ch. 464, § 7; Laws, 1989, ch. 382, § 1; Laws, 2000, ch. 516, § 130; Laws, 2000, ch. 575, § 1, eff from and after July 1, 2000.

Joint Legislative Committee Note — Section 130 of ch. 516, Laws, 2000, effective from and after its passage (approved April 30, 2000), amended this section. Section 1 of ch. 575, Laws, 2000, effective from and after July 1, 2000, also amended this section. As set out above, this section reflects the language of Section 1 of ch. 575, Laws, 2000, pursuant to Section 1-3-79 which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect earlier.

Cross References — Wetlands, generally, see §§ 49-27-1 et seq.

Security guards for rest and recreation areas located adjacent to highway rights-of-way, see §§ 65-1-129 through 65-1-137.

ATTORNEY GENERAL OPINIONS

Section 65-1-51 does not authorize the exercise of eminent domain for the sole purpose of acquiring lands for use as ecosystems or endangered species habitat or for the creation of ecosystems or endangered species habitat. Hamilton, April 20, 1995, A.G. Op. #95-0253.

§ 65-1-53. Repealed.

Repealed by Laws, 1995, ch. 397, § 1, eff from and after passage (approved March 15, 1995).

[Codes, 1942, § 8023.5; Laws, 1948, ch. 336, §§ 1, 2]

Editor's Note — Former § 65-1-53 was related to filing of plats of rights of ways.

§ 65-1-55. Noxious weeds and plants prohibited in rights of way.

No seed can be bought or planted by the Mississippi Highway Department for right of way seeding that contain more than the maximum allowance for noxious weed seed as prescribed by the Mississippi Pure Seed Law and regulations. No sodding will be allowed that contains prohibited noxious weed plants or tubers.

SOURCES: Codes, 1942, § 8038-21; Laws, 1964, ch. 460, § 1, eff from and after June 5, 1964.

Cross References — Agricultural seeds generally, see §§ 69-3-1 et seq.

§ 65-1-57. Secondary highways.

It shall be the duty of the Highway Commission to issue rules and regulations for the State Highway Department to construct all secondary roads, when taken over for construction and maintenance, up to such standard of specifications and with such surfacing material as the Highway Commission may determine from a traffic census of the use and importance thereof as would be justified from a standpoint of economy and convenience to the traveling public. To this end the Highway Commission is authorized, in dealing with said secondary roads, to have the highway department place surfacing material on said secondary roads. All secondary roads shall be constructed and maintained with a view of being eventually hard surfaced as provided for primary roads.

SOURCES: Codes, 1930, § 5000; 1942, § 8032; Laws, 1930, ch. 47; Laws, 1948, ch. 332, § 10 (second paragraph); Laws, 1981, ch. 464, § 8, eff from and after July 1, 1981.

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation, and whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

Cross References — Paving of highways, see § 65-1-61.

Maintenance of state highways generally, see § 65-1-65.

RESEARCH REFERENCES

Am Jur. 39 Am. Jur. 2d, Highways, Streets, and Bridges §§ 62 et seq.

13A Am. Jur. Pl & Pr Forms (Rev), Highways, Streets, and Bridges, Form 533. (petition or application by abutting owner for writ of mandamus to compel maintenance and repair of public road).

CJS. 40 C.J.S., Highways §§ 175 et seq.

§ 65-1-59. Status of existing state highways; annual report of recommendations.

(1) It shall be the duty of the Mississippi Transportation Commission to have the Mississippi Transportation Department carry out all contracts and agreements, including federal-aid projects and agreements under the County Highway Aid Law of 1946, being Sections 65-11-1 through 65-11-37, heretofore made or entered into with any county, subject, however, to applicable rules and regulations of the Federal Highway Administration. It shall be the duty of the Transportation Commission to continue to have the Mississippi Transportation Department maintain all state highways now under maintenance or hereafter taken over for maintenance, the purpose of this provision being to preserve the status quo of all state highways insofar as such highways have been taken over and control and jurisdiction has been assumed by the Mississippi Transportation Commission and Mississippi Transportation Department; however, except as otherwise provided in this section, if any highway or link of highway is removed from the state highway system by legislative act or by relocation or reconstruction, it shall no longer be maintained by or be under the jurisdiction of the Mississippi Transportation Commission or Mississippi Transportation Department, but shall be returned to the jurisdiction of the board of supervisors of the county or governing authorities of the municipality through which

such road runs. Except as to segments of highways shorter than three (3) miles which have been or which are hereafter replaced through curve straightening or minor realignment, the Transportation Commission shall retain and have the Mississippi Transportation Department maintain as state highways all portions of U.S. highways that either before or after July 1, 1989, have been or are replaced and constructed as a part of the interstate highway system, or four-lane primary system, or which are replaced and constructed or are designated to be replaced and constructed as part of the highway system under Section 65-3-97, including portions of all such highways so replaced, or which under Section 65-3-97 are designated to be replaced, by municipal bypasses; and such highways and portions thereof shall be continued to be maintained as a part of the Mississippi state highway system until removed from such system by legislative act. All such highways and portions thereof which, by virtue of the provisions of this section, are returned on or after July 1, 1989, to the jurisdiction of the Mississippi Transportation Commission shall be maintained by the Mississippi Transportation Department only to the traffic capacities existing at the time that they are returned and any subsequent traffic capacity improvements or other improvements desired by the county or municipality within which such highway or portion thereof is located shall be performed in accordance with highway standards approved by the Transportation Commission and the expenses for making such improvements shall be paid by the county or municipality; however, all highways and portions thereof so improved by the county or municipality shall thereafter be maintained by the Mississippi Transportation Department. Before any highway or portion thereof is returned to the Transportation Commission under this section, the county or municipality having jurisdiction thereof shall remove or cause to be removed by July 1, 1991, all right-of-way encroachments along the entire length of the highway or portion thereof which are not permitted by Transportation Commission and Transportation Department policies and rules and regulations adopted pursuant to state and federal law. Any such encroachments may be allowed to remain only by permits issued by the Mississippi Transportation Department in the manner and subject to the same conditions for the issuance of permits for similar encroachments on other highways on the state highway system. If traffic counts indicate that any highway or portions thereof placed under the jurisdiction of the Transportation Commission under the provisions of this section no longer form a substantial part of the state highway system, the Transportation Commission may request the Legislature to remove such highways or portions thereof from the state highway system and return said roads for maintenance to the county or municipality in which they are located, as provided in subsection (2) of this section. The highways which the Transportation Department is required to continue to maintain by virtue of the provisions of this section shall be in addition to the total mileage limitation of eight thousand six hundred (8,600) miles provided in Section 65-3-3.

(2) The Mississippi Transportation Commission shall, no later than October 1, 1981, and October 1 each year thereafter, furnish the Transporta-

tion Committee of the House of Representatives and the Highways and Transportation Committee of the Senate a recommendation for deletion of those highways or sections of highways which should be removed from the system.

SOURCES: Codes, 1930, § 5001; 1942, § 8033; Laws, 1930, ch. 47; Laws, 1948, ch. 332, § 11; Laws, 1949, Ex Sess ch. 6, § 10; Laws, 1964, ch. 451, § 1; Laws, 1981, ch. 464, §§ 9, 33; Laws, 1985, ch. 537, § 5; Laws, 1989, ch. 344, § 1; Laws, 1990, ch. 361, § 1; Laws, 2002, ch. 582, § 8, eff from and after July 1, 2002.

Cross References — Reversion to jurisdiction of city any street used as a state highway, upon relocation or abandonment as such by the state, see § 65-1-75.

Another provision regarding reversion of roads removed from the state road system to jurisdiction of counties and political subdivisions, see § 65-1-147.

Other annual reports to be made by the commission, see 65-1-149.

JUDICIAL DECISIONS

1. In general.

A court is without power to close a public road in private litigation between individuals unless such action is predicated upon a finding that there has been a valid order of the Board of Supervisors closing the road, spread upon its minutes, if it is a county road, or that similar official action has been taken by the State Highway Commission and is reflected by its official records, if it is a state road or highway. Barrett v. Pilgrim, 317 So. 2d 382 (Miss. 1975).

The state highway commission had the right to construct a median strip in a four-lane highway without payment of compensation to a landowner for damages resulting therefrom, even though the construction of such median strip would have the effect of restricting the abutting landowner's right of access to the east or northbound traffic lanes, provided crossovers were made available at reasonable intervals to permit passage of vehicles from one side of the highway to the other. Muse v. Mississippi State Hwy. Comm'n, 233 Miss. 694, 103 So. 2d 839 (1958).

Where a state highway department took over certain road in Prentiss County, excepting "all drainage structures not built according to the state standard plans and specifications," and thereafter order was changed to substitute "bridges" for "drainage structures," state highway had no jurisdiction over two bridges which did not comply with the standard, and, therefore, was under no obligation to rebuild them after their destruction by flood waters. Board of Supvrs. v. Mississippi State Hwy. Comm'n, 207 Miss. 839, 42 So. 2d 802 (1949).

ATTORNEY GENERAL OPINIONS

As to a designated U.S. Highway pursuant to § 65-3-3, segments longer than three miles cannot be removed from the jurisdiction and maintenance of the Mississippi Department of Transportation pursuant to § 65-1-59. Shepard, Jan. 25, 2002, A.G. Op. #02-0008.

The Mississippi Department of Transportation (MDOT) has the duty to maintain portion of Highway 465 which is a substandard road on a levee until such time as the legislature removes it from the state highway system or enacts legislation which otherwise ends the responsibility of MDOT to maintain it. The Mississippi Highway Patrol is required to enforce traffic laws on Highway 465 as provided in Section 45-3-21. Pace, Aug. 7, 2006, A.G. Op. 06-0285.

§ 65-1-61. Paving.

It shall be the duty of the Transportation Commission to have the Transportation Department construct, reconstruct and maintain, at the cost and expense of the state, all highways under its jurisdiction up to such standards and specifications and with such surfacing material as the Transportation Commission may determine, such paving to be done for each project as rapidly as funds are made available therefor and, as nearly as practicable, immediately upon the completion of all work performed pursuant to grade, drainage and bridge contracts for the project. Such paving shall be done in the order of the relative use and importance of said highways, as may be determined by the present and future traffic censuses thereof and other criteria, taking into consideration their present and future use, convenience, public necessity, public safety, the recorded maintenance expense, and their availability as highways through the state. The type of the paving and surfacing of such highways shall be determined by the executive director, subject to the rules, regulations and orders of the commission as spread on its minutes, after a complete study of the traffic requirements based upon the present and future traffic censuses, taking into consideration the factors above set forth. However, no highways shall be constructed, reconstructed, or maintained out of any patented paving material, regardless of what kind, on which a direct royalty is paid by the commission or any contractor; and the commission shall not have included in the plans or specifications for constructing, reconstructing, or maintenance of any highway the requirements that any material used or specified shall be laid under any process patented requiring the payment of a direct royalty for use of such process or patent.

SOURCES: Codes, 1930, § 4999; 1942, § 8025; Laws, 1930, ch. 47; Laws, 1938, ch. 199; Laws, 1948, ch. 332, § 9; Laws, 1949, Ex. Sess. ch. 6, § 13; Laws, 1981, ch. 464, § 10; Laws, 1994, ch. 347, § 1, eff from and after July 1, 1994.

Cross References — Paving of secondary highways, see § 65-1-57.
Paving to connect county seat with paved road, see § 65-1-63.

JUDICIAL DECISIONS

1. In general.

Phrase "as the Transportation Commission may determine" indicates that the Mississippi Transportation Commission's employees must use their own judgment or discretion in maintaining highways in the Mississippi Transportation Commission's jurisdiction according to its own standards and specifications. Knight v. Miss. Transp. Comm'n, 10 So. 3d 962 (Miss. Ct. App. 2009).

This section has no application to material used in the conversion by a county of an unpaved highway into a modern paved highway prior to the date of the passage of the Stansel Act. State Hwy. Comm'n v. Coahoma County, 203 Miss. 629, 32 So. 2d 555 (1947), error overruled, 203 Miss. 664, 37 So. 2d 287 (1948).

RESEARCH REFERENCES

Am Jur. 39 Am. Jur. 2d, Highways, Streets, and Bridges §§ 62 et seq.

CJS. 40 C.J.S., Highways §§ 175 et seq.

§ 65-1-63. Paving to connect county seat with paved road.

The State Highway Commission is hereby authorized and directed to have the state highway department construct, with its own funds, into each county seat in the state of Mississippi which now has no paved access road, a paved road which will connect said county seat with an existing paved road.

SOURCES: Codes, 1942, § 8025.5; Laws, 1956, ch. 326; Laws, 1981, ch. 464, § 11, eff from and after July 1, 1981.

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation, and whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 65-1-65. Maintenance.

It shall be the duty of the State Highway Commission to have the State Highway Department maintain all highways which have been or which may be hereafter taken over by the State Highway Department for maintenance in such a way as to afford convenient, comfortable, and economic use thereof by the public at all times. To this end it shall be the duty of the director, subject to the rules, regulations and orders of the commission as spread on its minutes, to organize an adequate and continuous patrol for the maintenance, repair, and inspection of all of the state-maintained state highway system, so that said highways may be kept under proper maintenance and repair at all times.

SOURCES: Codes, 1930, § 4999; 1942, § 8027; Laws, 1930, ch. 47; Laws, 1938, ch. 199; Laws, 1948, ch. 332, § 10 (first paragraph); Laws, 1949, Ex. Sess. ch. 6, § 14; Laws, 1981, ch. 464, § 12, eff from and after July 1, 1981.

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation, and whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

Cross References — Maintenance of secondary roads, see § 65-1-57.

JUDICIAL DECISIONS

1. In general.

Because Miss. Code Ann. § 65-1-65 and Miss. Code Ann. § 63-3-303 do not impose any specific directives as to the time, manner, and conditions for carrying out the Mississippi Transportation Commission's duty in maintaining highways or posting traffic-control or warning devices, those duties are not ministerial in nature but are discretionary. Further, the duty to maintain highways and place warning signs clearly requires the Mississippi Transportation Commission to consider the policy considerations of doing so. Knight v. Miss. Transp. Comm'n, 10 So. 3d 962 (Miss. Ct. App. 2009).

Trial court properly ruled that the Mississippi Department of Transportation (MDOT) was not immune from suit under Miss. Code Ann. § 11-46-9, as it found that, while MDOT's duty to inspect and maintain a highway where plaintiff's accident occurred was discretionary, it failed to exercise a minimum standard of ordinary care when it did not give notice of the dangerous condition of the highway. Miss. DOT v. Cargile, 847 So. 2d 258 (Miss. 2003).

Though the Mississippi Department of Transportation was not immune from suit, as the trial court properly found that a five to six inch drop-off on the edge of a road was a dangerous condition that was not obvious, which was created by the negligence of the Department and of which the Department knew but failed to warn against, the trial court erred by not assessing some degree of fault to plaintiff driver, who had been obliged to exercise vigilant caution when she learned the road was under construction. Miss. DOT v. Trosclair, 851 So. 2d 408 (Miss. Ct. App. 2003).

The Highway Department may go upon private land to perform public work necessary for the operation and maintenance of highways. Mississippi State Hwy. Comm'n v. Wood, 487 So. 2d 798 (Miss. 1986).

Statutes conferring exclusive jurisdiction on state highway commission over state highways and charging it with duty of maintaining such highways did not conflict with statute imposing duty upon railways of maintaining bridges over railways and approaches thereto, and did not relieve railways of that duty. Alabama & V. Ry. Co. v. Graham, 171 Miss. 695, 157 So. 241 (1934).

Amendment to constitution authorizing transfer of exclusive jurisdiction over state highways to state highway commission, and statutes giving state highway commission such jurisdiction and charging it with duty of maintaining such highways, did not affect statutory duty of railway of maintaining bridges over railways and approaches thereto. Alabama & V. Ry. Co. v. Graham, 171 Miss. 695, 157 So. 241 (1934).

ATTORNEY GENERAL OPINIONS

The Mississippi Department of Transportation (MDOT) has the duty to maintain portion of Highway 465 which is a substandard road on a levee until such time as the legislature removes it from the state highway system or enacts legislation which otherwise ends the responsibility of MDOT to maintain it. The Mississippi Highway Patrol is required to enforce traffic laws on Highway 465 as provided in Section 45-3-21. Pace, Aug. 7, 2006, A.G. Op. 06-0285.

RESEARCH REFERENCES

Am Jur. 39 Am. Jur. 2d, Highways, Streets, and Bridges §§ 74, 119 et seq.

48 Am. Jur. Proof of Facts 2d 335, Highway Defects — Close Proximity Rule.

50 Am. Jur. Proof of Facts 2d 63, Highway Defects — Liability For Failure to Install Median Barrier.

CJS. 40 C.J.S., Highways §§ 175 et seq.

§ 65-1-67. Edges of certain highways to be trimmed in color and manner conforming to uniform national standards.

The State Highway Commission is hereby authorized, empowered, and directed to have the State Highway Department trim with edge lines, of a color and in a manner which conforms with uniform national standards relating thereto which have been adopted by the Federal Highway Administration, the edges of all state-designated hard-surfaced highways which are constructed of asphaltic material, in the interest of public safety on said highways. The commission is authorized and directed to have the highway department utilize its engineers and other highway department employees and to expend available public funds for carrying out the intent and purposes of this section.

Except as necessary to accommodate reconstruction, no road or highway shall be opened for public use until the department has complied with the provisions of this section; however, the Director of the State Highway Department may permit segments of roads under contract for maintenance, construction or reconstruction to be open for public use when temporary center line markings are installed. Roadside pennant signs may be used in place of temporary center line markings in no passing lanes on seal-coated roads. All such temporary center lines or roadside pennant signs shall, as nearly as practicable, be in place before work is discontinued for the day or as soon thereafter as weather conditions permit.

SOURCES: Codes, 1942, § 8027.5; Laws, 1966, ch. 499, § 1; Laws, 1981, ch. 464, § 13; Laws, 1982, ch. 325; Laws, 1986, ch. 411; Laws, 1987, ch. 317, eff from and after July 1, 1987.

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation, and whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

JUDICIAL DECISIONS

1. Liability of Department of Transportation.

Though the Mississippi Department of Transportation was not immune from suit, as the trial court properly found that a five to six inch drop-off on the shoulder of a road was a dangerous condition that was not obvious, which was created by the negligence of the Department and of which the Department knew but failed to warn against, the trial court erred by not assessing some degree of fault to plaintiff driver, who had been obliged to exercise vigilant caution when she learned the road was under construction. Miss. DOT v. Trosclair, 851 So. 2d 408 (Miss. Ct. App. 2003).

§ 65-1-69. Crossings.

Whenever any railroad and state highway or part thereof shall cross each other at the same level and, in the opinion of the State Highway Commission, such crossing is dangerous to public safety or traffic is unreasonably impeded thereby and such crossing should be removed, the State Highway Commission may order such crossing eliminated either by having the State Highway Department carry such state highway under or over the tracks of such railroad.

The plans covering such proposed changes may be made either by the director of the State Highway Department, subject to the approval of the highway commission or the railroad company affected, but shall in either event be approved by both the highway commission and the railroad company before contract is awarded; but such provision shall not be used to unreasonably delay the construction of any proposed structure. When plans have been approved, such proposed work shall be advertised and contract awarded as elsewhere provided in this chapter for the advertising and awarding of contracts. Joint supervision of construction may be had by both the State Highway Department and the railroad company. The state highway commission and the railroad company shall pay equal parts of the cost of any underpass or overpass across the right-of-way of the railroad company. Such work shall be so planned and prosecuted as to allow the safe and regular operations of trains at every stage of the work.

Appeals from decisions or determinations of the State Highway Commission may be made by any party affected under this section, and the procedure for such appeal shall be the same as is provided by law for appeals from decisions and determinations of the boards of supervisors.

SOURCES: Codes, 1930, § 5007; 1942, § 8039; Laws, 1930, ch. 47; Laws, 1948, ch. 332, § 15; Laws, 1981, ch. 464, § 14, eff from and after July 1, 1981.

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation, and whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

Cross References — Mississippi Grade Crossing Closure Account, see § 57-43-13.
Powers and duties of the Transportation Commission, generally, see § 65-1-8.
Construction of protective devices at railroad crossings, see § 65-1-70.
Railroads shall erect "railroad crossbuck," see § 77-9-247.
Highway crossings and bridges over railroads, see § 77-9-251.

JUDICIAL DECISIONS

1. In general.

Statute charging Highway Commission with duty of maintaining state highways was not in conflict with statute imposing upon railroads duty of maintaining bridges and approaches over railways. Alabama & V. Ry. Co. v. Graham, 171 Miss. 695, 157 So. 241 (1934).

Highway commission has jurisdiction to establish underpass at point different from that at which existing highway crosses railroad. New Orleans & N.E.R. Co. v. State Hwy. Comm'n, 164 Miss. 343, 144 So. 558 (1932).

§ 65-1-70. Construction of protective devices at railroad crossings.

The Mississippi State Highway Department is authorized to construct protective devices or warning devices at or in the vicinity of any railroad crossing of a public highway under the jurisdiction of any county or incorporated municipality, based upon a showing of need resulting from a multidisciplinary study, whenever federal funds are available for such construction. The department is further authorized to supply, out of any available funds in the State Highway Fund, a maximum of one percent (1%) of the funds required for such construction if the county or incorporated municipality in which the construction will be performed complies with the necessary conditions for receipt of the balance of federal matching funds for such construction.

SOURCES: Laws, 1988, ch. 408, § 1, eff from and after July 1, 1988.

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation.

Cross References — Mississippi Grade Crossing Closure Account, see § 57-43-13.

Allocation and matching of federal aid secondary funds, federal "safer off-system" funds and federal aid off-system highway funds, see § 65-9-29.

Railroads shall erect "railroad crossbuck," see § 77-9-247.

ATTORNEY GENERAL OPINIONS

Counties are responsible for the installation and maintenance of necessary warning signs and pavement markings at rail crossings on roads under their jurisdiction subject to approval by the State Highway Commission. Fortier, Mar. 29, 2002, A.G. Op. #02-0109.

§ 65-1-70.5. Imputation of liability as to protective devices at railroad crossings.

The provisions of Section 65-1-70 shall not impute any liability of any kind or nature to the Mississippi State Highway Commission, the Mississippi State Highway Department or its agents, servants or employees.

SOURCES: Laws, 1988, ch. 408, § 2, eff from and after July 1, 1988.

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation, and whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 65-1-71. Detours.

The director is hereby authorized to close highways for construction purposes and in emergencies, and shall select, lay out, maintain, and keep in as good repair as possible suitable detours by the most practicable route, where same are necessary for the public convenience while any sections of said highways or roads are being improved or constructed or closed. The director shall place or cause to be placed explicit directions to the traveling public during repair of said highway or road under process of construction. As far as practical roads already laid out shall be connected with and used for such detours.

The director is hereby authorized, subject to the approval of the commission, to enter into agreements, spread on the minutes of both boards, with the local road authorities of the county or counties in which construction or maintenance work is to be done, to pay all or any part of the cost of laying out or maintaining said detours. All expenses to the state of laying out and maintaining said detours shall be paid out of the state highway funds. The director is also authorized, subject to the approval of the commission, to make reasonable rules and regulations to keep highways under construction open to traffic where such action is deemed to be practical and desirable.

If any county-maintained road or municipally-maintained street is used temporarily as a part of a state highway detour, it shall be the duty of the highway department, when said detour is abandoned as such, to place the same in as good condition as said road or street was when its use as a detour began.

SOURCES: Codes, 1930, § 5002; 1942, § 8034; Laws, 1930, ch. 47; Laws, 1948, ch. 332, § 12.

Cross References — Repair of city streets used as detours for United States highways, see § 65-1-73.

JUDICIAL DECISIONS

1. In general.
2. Traffic violations.

1. In general.

The first two paragraphs of this section impose an authoritative control over commitments of highway department funds by requiring that either the director, or the director with approval of the commission, must commit state funds. Lowndes County v. Mississippi State Hwy. Comm'n, 220 So. 2d 349 (Miss. 1969).

The third paragraph of this section must be considered with the remainder of the statute and the evidence purposes of the legislature, one of which purposes, expressly applicable to emergencies, is to place the responsibility upon either the director or the commission, or both, to make an authorization of a detour for which the commission's funds are liable. Lowndes County v. Mississippi State Hwy. Comm'n, 220 So. 2d 349 (Miss. 1969).

The dominant purpose of the third paragraph of this section expressly applicable to emergencies, is to place the responsibility upon either the director or the commission, or both, to make an authorization of a detour for which the commission's funds are liable, and this paragraph is not sufficient of itself to impose liability for damages upon the commission and its highway department funds, either expressly or by necessary implication. Lowndes County v. Mississippi State Hwy. Comm'n, 220 So. 2d 349 (Miss. 1969).

2. Traffic violations.

Although there was no violation of § 63-3-516 when the defendant drove 67 miles per hour in a construction zone that was posted at 60 miles per hour because it was nighttime and no workers were present, there was a violation of this section as he did not obey a sign which was erected to control the use of the road during construction. Harrison v. State, — So. 2d —, 2000 Miss. App. LEXIS 44 (Miss. Ct. App. Feb. 8, 2000), affirmed by 800 So. 2d 1134, 2001 Miss. LEXIS 223 (Miss. 2001).

§ 65-1-73. Repair of city streets used as detours for United States highways.

The Mississippi State Highway Commission is authorized, in its discretion, to have the state highway department repair any paved city streets used as a detour subsequent to the year 1944 for any United States numbered highway while the same was under construction or reconstruction, provided such paved city streets were marked by the highway commission as such detour. The extent of the repairs authorized hereby shall be to place such streets in as good condition as the same were at the time their use as such detour began, and is supplemental to the authority provided by Section 65-1-71.

SOURCES: Codes, 1942, § 8034.5; Laws, 1950, ch. 401; Laws, 1981, ch. 464, § 15, eff from and after July 1, 1981.

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation, and whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

Cross References — Maintenance and repair of detours generally, see § 65-1-71.

§ 65-1-75. Municipalities.

(1) The Mississippi Transportation Commission is authorized and empowered to have the Transportation Department locate, construct, reconstruct and maintain any designated state highway under its jurisdiction to, through, across or around any municipality in the state, regardless of the width of the street between curbs; and in so locating it is fully empowered to follow the route of the existing street or to depart therefrom, as in its discretion it deems advisable, and to obtain and pay for the necessary rights-of-way, as provided in Section 65-1-47. The municipality in which such construction is to be undertaken is likewise authorized to acquire rights-of-way on any such streets or on any newly located routes, either by purchase, gift or condemnation. Such rights-of-way may be acquired by either the municipality or the Transportation Department, subject to the approval of the commission, and the cost thereof may be borne by either or both as may be mutually agreed upon. In any event such municipality may be required to save the commission and department harmless from any claims for damages arising from the construction of the

highway through such municipality, including claims for rights-of-way, change of grade line, interference with public structures, and any and all damages so arising. Municipalities may secure additional improvements by payment of the additional cost of same. The commission may require such municipality to cause to be laid all water, sewer, gas or other pipelines or conduits, together with all necessary house or lot connections or services, to the curb line of such road or street to be constructed, and the commission is authorized to refuse to have the department lay such pipelines or conduits beneath such roads or streets until the municipality has laid same or entered into an agreement to reimburse the commission or department for the expense thereby incurred.

(2) All construction of state highways in or through municipalities, where done at the cost and expense of the state, whether heretofore or hereafter, shall be maintained in the same manner and to the same extent as is construction on state highways outside the limits of municipalities to the end that investment of the state in such highway so constructed may be preserved and maintained; and all reasonable rules and regulations with reference to the preservation and maintenance of such highways constructed at state expense, whether within or without municipal limits, may be promulgated by the commission, except that it shall have no power to promulgate police regulations contrary to existing law. On any municipal streets or parts or sections thereof taken over for regular maintenance and maintained by the department as a part of the state highway system, the municipality shall not be liable for negligence occasioned by the maintenance or repair of such streets thus apportioned to and of such width as is maintained by the department. The municipality shall have full control and responsibility beyond the curb lines of any designated highway or street, whether heretofore or hereafter so designated, (except the interstate system) located within its present or future expanded municipal corporate limits, regardless of the ownership of the right-of-way, including but not limited to, the construction and maintenance of sidewalks, grass mowing and drainage systems; however, the department may utilize the right-of-way purchased by the commission without any additional cost or permission.

The municipality shall not allow any encroachments, signs or billboards to be erected or to remain on state-owned rights-of-way on any designated highway within its corporate limits without the consent of the commission. The municipality, at its own expense, shall provide street illumination and shall clean all streets, including storm sewer inlets and catch basins. The commission may enter into an agreement with the municipality or with a private entity to sweep and clean the designated highways within or without the corporate limits. The commission may, at state expense, provide illumination and may clean all interstate highways within the corporate limits of any municipality. The right of the municipality to grant franchises over, beneath and upon such streets is specifically retained, but the municipality shall require every grantee of a franchise to restore, repair and replace to its original condition any portion of any such street damaged or injured by it; however, permission to open the surface of any municipal street maintained by the department must be obtained from both the commission and the municipality concerned before any such opening is made. Each municipality shall retain full police power over its streets, particularly as to regulating and enforcing traffic and parking restrictions on such streets, but any traffic control and parking regulations repugnant to state law shall be null and void. The commission shall have the department erect, control and maintain all highway route markers and directional signs on such streets at state expense. The commission, at state expense, shall have the department install, operate, maintain, control, and have full jurisdiction over, all traffic control devices, including, but not limited to, signals, signs, striping and lane markings on state highway streets in municipalities having a population of twenty thousand (20,000) or less according to the current U.S. census; but municipalities over twenty thousand (20,000) population according to such census shall install, operate, maintain and control such devices at their own expense, subject to approval of the executive director regarding operations, method of installation and type only. Municipalities having a population of five thousand (5,000) or more but less than twenty thousand (20,000) according to the most recent federal census shall only be responsible for electrical operating costs; and all other costs for the installation, operation and maintenance of traffic control devices, including the changing of signal bulbs in traffic signal lights, shall be the responsibility of the Transportation Department. The commission may purchase at state expense and install traffic control devices in municipalities over twenty thousand (20,000) population and donate them to the municipalities for operation and maintenance whenever it appears to the commission that, in the interest of safety or convenience of the motoring public, any of the devices should be upgraded, replaced or removed. Any revenue from parking meters on any such streets shall be controlled by and belong to the municipality.

(3) The maintenance of all streets within the limits of any municipality in this state, regardless of size, which are presently being regularly maintained, in whole or in part, by the department at state expense as a part or parts of any designated state highway shall be continued. Whenever any state highway runs into or through the corporate limits of any municipality, the municipal street or the street utilized and marked as a part of any such state highway may be a part of the state highway system and may be maintained by the department; however, such route through any municipality shall be selected by the commission by orders spread on its minutes describing all such routes, and such route or routes may be changed, relocated or abandoned by the commission from time to time, all under the provisions, terms and conditions herein provided, but the commission shall have the department maintain only one (1) route of any highway through a municipality. Upon relocation of such state highway or abandonment thereof, the municipal street formerly used as a state highway shall thereby return to the jurisdiction of, and maintenance by, the municipality.

SOURCES: Codes, 1930, § 5005; 1942, § 8037; Laws, 1930, ch. 47; Laws, 1948, ch. 332, § 13; Laws, 1949, Ex. Sess. ch. 6, § 3; Laws, 1981, ch. 464, § 16; Laws,

1995, ch. 395, § 1; Laws, 1997, ch. 607, § 1, eff from and after passage (approved April 24, 1997).

Cross References — Jurisdiction of municipality over streets, sidewalks, sewers and parks, see § 21-37-3.

Right of municipality to exercise eminent domain in the laying out of streets, see § 21-37-47.

Reversion to jurisdiction of county any road removed from the state highway system, see § 65-1-59.

Another provision regarding reversion of jurisdiction to counties and political subdivisions any roads removed from the state highway system, see § 65-1-147.

Construction or maintenance of highways within or without municipalities by county board of supervisors, see § 65-7-81.

JUDICIAL DECISIONS

1. In general.

Subdivision (2) of this section serves only to relieve the city from any liability because of negligence occasioned by the repair and maintenance of a street maintained by the highway department, and it does not relieve the city for its negligence in causing an excavation or ditch to be opened and maintained in a dangerous condition at a place that extends into that part of the street being maintained by the highway department. City of Laurel v. Upton, 253 Miss. 380, 175 So. 2d 621 (1965).

The provision of paragraph (2) of this section that "the municipality shall have full control and responsibility beyond the curb lines of any such streets" refers to streets being maintained by the state highway commission, not to highways where the commission owned the right of way lying both within and without the curbs; and where the commission has title to the right of way of a highway running through the city, it has the power to cause the removal of certain commercial signs projecting over and above the right of way, whether such use or obstructions constitute safety hazards or not. Mississippi State Hwy. Comm'n v. Adams, 230 Miss. 559, 93 So. 2d 650 (1957).

Municipalities of 2,500 in population or more are not included within Code 1942, §§ 8035, 8036 except as to those sections of the municipality wherein the houses average more than 200 feet apart. State Hwy. Comm'n v. Coahoma County, 203 Miss. 629, 32 So. 2d 555 (1947), error overruled, 203 Miss. 664, 37 So. 2d 287 (1948).

Municipalities of less than 2,500 in population are included within Code 1942, §§ 8035, 8036. State Hwy. Comm'n v. Coahoma County, 203 Miss. 629, 32 So. 2d 555 (1947), error overruled, 203 Miss. 664, 37 So. 2d 287 (1948).

This section did not modify the power of a municipality of paramount control or jurisdiction with reference to rules and regulations governing the use of streets by travelers, including the parking of cars on a street in a municipality where such street is a part of one of the primary highways in the state. City of Ellisville v. State Hwy. Comm'n, 186 Miss. 473, 191 So. 274 (1939).

RESEARCH REFERENCES

ALR. Municipal corporation's safety rules and regulations as admissible in evidence in action by private party against municipal corporation or its officers or employees for negligent operation of vehicle. 82 A.L.R.3d 1285.

Governmental liability for failure to reduce vegetation obscuring view at railroad crossing or at street or highway intersection. 22 A.L.R.4th 624.

§ 65-1-77. Agreements for highway and street projects forming part of overall plan encompassed by Title 23, United States Code.

The State Highway Commission and the counties and municipalities of the state are hereby authorized to enter into agreements for highway and street projects which are a part of an overall plan to be administered under the provisions of Title 23, United States Code. Such agreements may provide for traffic engineering assistance to the local governments for the development by the State Highway Department of records systems for local roads and streets. The counties and municipalities of the state are authorized to deposit with the State Highway Department the federal aid matching requirement for the project from any available fund. The county and/or municipal share and the federal share will be handled in the manner provided therefor in Section 65-9-17. The county will be required to fulfill its obligation for maintenance of any project constructed under this authorization in the same manner required of or for any state aid road. It shall be the duty of the municipal officials of any incorporated city entering into this agreement to properly maintain and operate any completed project or improvement on the municipal street system. It shall be the duty of the chief engineer of the State Highway Department and his assistants to make at least annual maintenance inspections of completed projects and such other periodic inspections as he shall deem necessary. If essential maintenance is not properly and regularly done in the opinion of the chief engineer, then notice shall be given by the director of the State Highway Department in writing to the county or municipality in fault; and, if such maintenance is not done and continued within sixty (60) days from the date of such notice, then the director of the State Highway Department may proceed to have done the necessary maintenance and repair work on such street and have the cost of same credited to the State Highway Fund from any fund available to the county or municipality within the state treasury.

SOURCES: Codes, 1942, § 8059.5-51; Laws, 1970, ch. 441, § 1; Laws, 1974, ch. 318, § 1; Laws, 1981, ch. 464, § 17, eff from and after July 1, 1981.

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation, and whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 65-1-79. Agreements for purpose of securing federal aid funds available under Title 23, United States Code.

The State Highway Commission is authorized to enter into agreements with the United States of America for the purpose of securing federal aid funds when available under the provisions of Title 23, United States Code. The federal aid received under this authorization may be used on roads and streets, either on or off the designated highway system or designated state aid system. The State Highway Commission is given the power and authority to approve the system of roads and streets when the approval of such system(s) establishes the eligibility for these roads and streets for federally funded projects when the necessary matching requirement of the federal aid is supplied by the political subdivision wherein the system or project lies. The State Highway Commission is further vested with full authority to determine the priority of the expenditure of these funds and to approve the priority of improvements financed as a result of such authorization.

SOURCES: Codes, 1942, § 8059.5-52; Laws, 1970, ch. 441, § 2; Laws, 1974, ch. 318, § 2, eff from and after passage (approved March 5, 1974).

§ 65-1-81. Counties and municipalities may contribute funds to aid construction of state highways.

(1) Any municipality in the State of Mississippi, into or through which a designated state highway runs or is proposed to be run by the State Highway Commission, may, within the discretion of its governing authorities, contribute funds to the State Highway Commission for the purpose of aiding in the building or construction of such highway, including the construction of necessary bridges, in an amount to be determined by agreement in writing between the State Highway Commission and the governing authority of such municipality and entered in their respective minutes; but in no event shall such contribution exceed one half of one per centum of the total assessed valuation of such municipality, according to the last completed assessment roll of the taxable property therein.

(2) Any county within the State of Mississippi, into or through which a designated state highway runs or is proposed to be run by the State Highway Commission, whether within or without a municipality, may, within the discretion of its board of supervisors, contribute funds to the State Highway Commission for the purpose of aiding in the building or construction of such highway, including the construction of necessary bridges, in an amount to be determined by agreement in writing between the State Highway Commission and the board of supervisors of such county and entered in their respective minutes; but in no event shall such contribution exceed one fifth of one per centum of the total assessed valuation of such county, according to the last completed assessment roll of the taxable property therein.

(3) Any municipality or county, exercising any of the powers granted herein, is hereby authorized and empowered to issue general obligation bonds to provide funds for the aforesaid purpose. Any municipality issuing such bonds shall proceed in compliance with the provisions of Sections 21-33-301 through 21-33-329, Mississippi Code of 1972, and any county issuing such bonds shall proceed in compliance with the provisions of Sections 19-9-1 through 19-9-31, Mississippi Code of 1972, and all such bonds shall be sold in the manner provided by Section 31-19-25, Mississippi Code of 1972. However, where a municipality and county jointly obligate themselves to make contri-

butions to the State Highway Commission, as provided herein, such municipality and such county may enter into an agreement to be spread on the minutes of the board of supervisors of such county and the minutes of the governing authority of such municipality, under which the municipality may issue bonds to raise funds for both the municipality and county, or the county may issue bonds to raise funds for both the county and municipality. Any such agreement may provide that in lieu of issuing its bonds hereunder, the municipality or the county, as the case may be, may contribute money to the other annually or semiannually in such amount and for such period of time as may be agreed upon by the two governing authorities, for the purpose of retiring its portion of the bonds issued by the other; and the obligation assumed by the nonissuing authority may be pledged in addition to the full faith, credit, and resources of the issuing authority for the payment of such bonds as they mature and the interest thereon as it may accrue. Both the municipality and the county, by their respective governing authorities, are hereby authorized and empowered to levy and collect the necessary ad valorem taxes on all taxable property within their respective jurisdictions sufficient to retire such bonds, or to provide funds to contribute to the other authority, as required by the aforesaid agreement; when any county shall be required to make a contribution to a municipality under the terms of this section, such contribution may be made from the proceeds of a tax to be levied pursuant to the provisions of Section 65-15-7, as the same now exists or may hereafter be amended, or from any source or sources available to such county. In the event that the required funds or any part thereof are thus provided, the annual ad valorem tax hereinabove provided for may be correspondingly reduced. Any bonds issued by any municipality or any county under the terms and provisions of this section, or any pledge of contributions made by any county or municipality, shall be excepted from all limitations of indebtedness prescribed by any general or special law and shall not be considered in applying any present or future limitations of indebtedness. This section is cumulative and is in addition to any authority now exercised by counties and municipalities under any other law relating to either.

(4) Any tax levy made to service the bonds authorized to be issued under authority of this section shall not be refundable under the homestead exemption laws of this state.

SOURCES: Codes, 1942, § 8036.5; Laws, 1963, Ex. Sess. ch. 13, §§ 1-5, eff from and after passage (approved March 2, 1963).

RESEARCH REFERENCES

Am Jur. 39 Am. Jur. 2d, Highways, Streets and Bridges §§ 132-134.

CJS. 40 C.J.S., Highways § 188.

§ 65-1-83. Traffic census and other surveys, inspections or studies.

The State Highway Commission shall continue through the State Highway Department to cooperate with the United States Department of Transportation, as necessary, in the taking of a traffic census and the making of other surveys, inspections or studies as said federal agency may request or require pertaining to or on the state highway system and such other roads, bridges and highways within this state as it may deem advisable.

SOURCES: Codes, 1930, § 5008; 1942, § 8040; Laws, 1930, ch. 47; Laws, 1948, ch. 332, § 16; Laws, 1979, ch. 303; Laws, 1981, ch. 464, § 18, eff from and after July 1, 1981.

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation, and whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 65-1-85. Method of awarding contracts.

(1) All contracts by or on behalf of the commission for the purchase of materials, equipment and supplies shall be made in compliance with Section 31-7-1 et seq. All contracts by or on behalf of the commission for construction, reconstruction or other public work authorized to be done under the provisions of this chapter, except maintenance, shall be made by the executive director, subject to the approval of the commission, only upon competitive bids after due advertisement as follows, to wit:

(a) Advertisement for bids shall be in accordance with such rules and regulations, in addition to those herein provided, as may be adopted therefor by the commission, and the commission is authorized and empowered to make and promulgate such rules and regulations as it may deem proper, to provide and adopt standard specifications for road and bridge construction, and to amend such rules and regulations from time to time.

(b) The advertisement shall be inserted twice, being once a week for two (2) successive weeks in a newspaper published at the seat of government in Jackson, Mississippi, having a general circulation throughout the state, and no letting shall be less than fourteen (14) days nor more than sixty (60) days after the publication of the first notice of such letting, and notices of such letting may be placed in a metropolitan paper or national trade publication.

(c) Before advertising for such work, the executive director shall cause to be prepared and filed in the department detailed plans and specifications covering the work proposed to be done and copies of the plans and specifications shall be subject to inspection by any citizen during all office hours and made available to all prospective bidders upon such reasonable terms and conditions as may be required by the commission. A fee shall be charged equal to the cost of producing a copy of any such plans and specifications.

(d) All such contracts shall be let to a responsible bidder with the lowest and best bid, and a record of all bids received for construction and reconstruction shall be preserved.

(e) Each bid for such a construction and reconstruction contract must be accompanied by a cashier's check, a certified check or bidders bond executed by a surety company authorized to do business in the State of Mississippi, in the principal amount of not less than five percent (5%) of the bid, guaranteeing that the bidder will give bond and enter into a contract for the faithful performance of the contract according to plans and specifications on file.

(f) Bonds shall be required of the successful bidder in an amount equal to the contract price. The contract price shall mean the entire cost of the particular contract let. In the event change orders are made after the execution of a contract which results in increasing the total contract price, additional bond in the amount of the increased cost may be required. The surety or sureties on such bonds shall be a surety company or surety companies authorized to do business in the State of Mississippi, all bonds to be payable to the State of Mississippi and to be conditioned for the prompt, faithful and efficient performance of the contract according to plans and specifications, and for the prompt payment of all persons furnishing labor, material, equipment and supplies therefor. Such bonds shall be subject to the additional obligation that the principal and surety or sureties executing the same shall be liable to the state in a civil action instituted by the state at the instance of the commission or any officer of the state authorized in such cases, for double any amount in money or property the state may lose or be overcharged or otherwise defrauded of by reason of any wrongful or criminal act, if any, of the contractor, his agent or employees.

(2) With respect to equipment used in the construction, reconstruction or other public work authorized to be done under the provisions of this chapter: the word "equipment," in addition to all equipment incorporated into or fully consumed in connection with such project, shall include the reasonable value of the use of all equipment of every kind and character and all accessories and attachments thereto which are reasonably necessary to be used and which are used in carrying out the performance of the contract, and the reasonable value of the use thereof, during the period of time the same are used in carrying out the performance of the contract, shall be the amount as agreed upon by the persons furnishing the equipment and those using the same to be paid therefor, which amount, however, shall not be in excess of the maximum current rates and charges allowable for leasing or renting as specified in Section 65-7-95; the word "labor" shall include all work performed in repairing equipment used in carrying out the performance of the contract, which repair labor is reasonably necessary to the efficient operation of said equipment; and the words "materials" and "supplies" shall include all repair parts installed in or on equipment used in carrying out the performance of the contract, which repair parts are reasonably necessary to the efficient operation of said equipment.

(3) The executive director, subject to the approval of the commission, shall have the right to reject any and all bids, whether such right is reserved in the notice or not.

(4) The commission may require the pre-qualification of any and all bidders and the failure to comply with pre-qualification requirements may be the basis for the rejection of any bid by the commission. The commission may require the pre-qualification of any and all subcontractors before they are approved to participate in any contract awarded under this section.

(5) The commission may adopt rules and regulations for the termination of any previously awarded contract which is not timely proceeding toward completion. The failure of a contractor to comply with such rules and regulations shall be a lawful basis for the commission to terminate the contract with such contractor. In the event of a termination under such rules and regulations, the contractor shall not be entitled to any payment, benefit or damages beyond the cost of the work actually completed.

(6) Any contract for construction or paving of any highway may be entered into for any cost which does not exceed the amount of funds that may be made available therefor through bond issues or from other sources of revenue, and the letting of contracts for such construction or paving shall not necessarily be delayed until the funds are actually on hand, provided authorization for the issuance of necessary bonds has been granted by law to supplement other anticipated revenue, or when the department certifies to the Department of Finance and Administration and the Legislative Budget Office that projected receipts of funds by the department will be sufficient to pay such contracts as they become due and the Department of Finance and Administration determines that the projections are reasonable and receipts will be sufficient to pay the contracts as they become due. The Department of Finance and Administration shall spread such determination on its minutes prior to the letting of any contracts based on projected receipts. Nothing in this subsection shall prohibit the issuance of bonds, which have been authorized, at any time in the discretion of the State Bond Commission, nor to prevent investment of surplus funds in United States government bonds or State of Mississippi bonds as presently authorized by Section 12, Chapter 312, Laws of 1956.

(7) All other contracts for work to be done under the provisions of this chapter and for the purchase of materials, equipment and supplies to be used as provided for in this chapter shall be made in compliance with Section 31-7-1 et seq.

(8) The commission shall not empower or authorize the executive director, or any one or more of its members, or any engineer or other person to let or make contracts for the construction or repair of public roads, or building bridges, or for the purchase of material, equipment or supplies contrary to the provisions of this chapter as set forth in this section, except in cases of flood or other cases of emergency where the public interest requires that the work be done or the materials, equipment or supplies be purchased without the delay incident to advertising for competitive bids. Such emergency contracts may be made without advertisement under such rules and regulations as the commission may prescribe.

(9) The executive director, subject to the approval of the commission, is authorized to negotiate and make agreements with communities and/or civic organizations for landscaping, beautification and maintenance of highway rights-of-way; however, nothing in this subsection shall be construed as authorization for the executive director or commission to participate in such a project to an extent greater than the average cost for maintenance of shoulders, backslopes and median areas with respect thereto.

(10) The executive director may negotiate and enter into contracts with private parties for the mowing of grass and trimming of vegetation on the rights-of-way of state highways whenever such practice is possible and cost effective.

(11)(a) As an alternative to the method of awarding contracts as otherwise provided in this section, the commission may use the design-build method of contracting for the following:

(i) Projects for the Mississippi Development Authority pursuant to agreements between both governmental entities;

(ii) Any project with an estimated cost of not more than Ten Million Dollars ($10,000,000.00), not to exceed two (2) projects per fiscal year; and

(iii) Any project which has an estimated cost of more than Fifty Million Dollars ($50,000,000.00), not to exceed one (1) project per fiscal year.

(b) As used in this subsection, the term "design-build" method of contracting means a contract that combines the design and construction phases of a project into a single contract and the contractor is required to satisfactorily perform, at a minimum, both the design and construction of the project.

(c) The commission shall establish detailed criteria for the selection of the successful design-build contractor in each request for design-build proposals. The evaluation of the selection committee is a public record and shall be maintained for a minimum of ten (10) years after project completion.

(d) The commission shall maintain detailed records on projects separate and apart from its regular record keeping. The commission shall file a report to the Legislature evaluating the design-build method of contracting by comparing it to the low-bid method of contracting. At a minimum, the report must include:

(i) The management goals and objectives for the design-build system of management;

(ii) A complete description of the components of the design-build management system, including a description of the system the department put into place on all projects managed under the system to insure that it has the complete information on highway segment costs and to insure proper analysis of any proposal the commission receives from a highway contractor;

(iii) The accountability systems the Transportation Department established to monitor any design-build project's compliance with specific goals and objectives for the project;

(iv) The outcome of any project or any interim report on an ongoing project let under a design-build management system showing compliance with the goals, objectives, policies and procedures the department set for the project; and

(v) The method used by the department to select projects to be let under the design-build system of management and all other systems, policies and procedures that the department considered as necessary components to a design-build management system.

(e) All contracts let under the provisions of this subsection shall be subject to oversight and review by the State Auditor. The State Auditor shall file a report with the Legislature on or before January 1 of each year detailing his findings with regard to any contract let or project performed in violation of the provisions of this subsection. The actual and necessary expenses incurred by the State Auditor in complying with this paragraph (e) shall be paid for and reimbursed by the Mississippi Department of Transportation out of funds made available for the contract or contracts let and project or projects performed.

(12) The provisions of this section shall not be construed to prohibit the commission from awarding or entering into contracts for the design, construction and financing of toll roads, highways and bridge projects as provided under Sections 65-43-1 and 65-43-3.

SOURCES: Codes, 1930, § 5009; 1942, § 8041; Laws, 1930, ch. 47; Laws, 1948, ch. 332, § 17; Laws, 1958, ch. 370; Laws, 1968, ch. 507, § 1; Laws, 1970, ch. 439, § 1; Laws, 1973, ch. 418, § 1; Laws, 1981, ch. 542, § 2; Laws, 1984, ch. 317; Laws, 1984, ch. 488, § 265; Laws, 1986, ch. 498; Laws, 1991, ch. 544, § 1; Laws, 1998, ch. 357, § 1; Laws, 2003, ch. 564, § 1; Laws, 2004, ch. 542, § 1; Laws, 2007, ch. 582, § 23, eff July 18, 2007 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the amendment of this section.)

Editor's Note — Laws, 1984, ch. 488, § 341, provides as follows:

"SECTION 341. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action which accrued prior to the date on which the applicable sections of this act become effective, whether such assessments, appeals, suits, claims or actions shall have been begun before the date on which the applicable sections of this act become effective or shall thereafter be begun."

On July 18, 2007, the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965 to the amendment of this section by Laws of 2007, ch. 582, § 23.

Cross References — Joint Legislative Budget Committee and Legislative Budget Office, generally, see §§ 27-103-101 et seq.

General provisions relative to public contracts, see § 31-1-1 et seq.

Public works contracts, generally, see § 31-5-3.

Invalidity of "hold harmless" clauses in public and private construction contracts, see § 31-5-41.

Duties of Surplus Property Procurement Commission, see §§ 31-9-1 et seq.

Requirement for advertising of bids generally, see § 65-1-85.

Purchases of war surplus equipment and supplies without advertising for bids, see § 65-1-87.

JUDICIAL DECISIONS

1. In general.
2.-5. [Reserved for future use.]
6. Under former law—generally.
7. —Contractor's liability for supplies, equipment, and the like.

1. In general.

Although the construction company claimed that the other company's bid proposal did not meet the requirements of § 102.07(e) of the Mississippi Standard Specifications for Road and Bridge Construction, 1990 Edition, because it did not contain a signed second unnumbered page of the proposal with Addendum, § 102.07 did not require the rejection of any bid that had any irregularity as defined therein and the irregularity was not material; therefore, the irregularity was minor, one which the Mississippi Transportation Commission retained the discretion to waive, and accordingly not reversible error. Hill Bros. Constr. & Eng'g Co. v. Miss. Transp. Comm'n, 909 So. 2d 58 (Miss. 2005).

In a dispute over the competitive bidding process under Miss. Code Ann. § 65-1-85, the Mississippi Transportation Commission did not act arbitrarily and capriciously by exercising its discretion under Miss. Standard Specifications for Road and Bridge Construction § 102.07 (1990) to accept an irregular bid; the accepted bidder failed to sign one page. Hill Bros. Constr. & Eng'g Co. v. Miss. Transp. Comm'n, — So. 2d —, 2005 Miss. LEXIS 146 (Miss. Mar. 3, 2005), substituted opinion at, opinion withdrawn by 909 So. 2d 58, 2005 Miss. LEXIS 511 (Miss. 2005).

Failure of a low bidder to acknowledge receipt of an addendum does not require the rejection of that bid. Hill Bros. Constr. & Eng'g Co. v. Miss. Transp. Comm'n, — So. 2d —, 2005 Miss. LEXIS 146 (Miss. Mar. 3, 2005), substituted opinion at, opinion withdrawn by 909 So. 2d 58, 2005 Miss. LEXIS 511 (Miss. 2005).

Where a tractor was not substantially consumed in the performance of a highway construction contract and had a useful life expectancy greatly in excess of the particular contract, it was error to hold the surety on the contractor's bond liable for rental purchase payments on the machine, as this section covers labor, material, equipment, and supplies in connection with a particular project and does not impose upon the surety liability in connection with long-lived equipment reasonably anticipated to be necessary for the fulfillment of the road contract at hand and capable with its life expectancy of use on many other similar projects. Transamerica Ins. Co. v. Carter Equip. Co., 206 So. 2d 632 (Miss. 1968).

The chancellor did not err in rendering judgment against the surety on the bond given under this section for repairs and parts furnished prior to the repossession of the equipment. Euclid-Mississippi v. Western Cas. & Sur. Co., 249 Miss. 779, 163 So. 2d 904 (1964).

While day to day repairs to keep equipment operating on the job are covered by the bond given under this section, where major replacements or improvements to machinery are involved, these may take on the characteristics of new equipment acquisitions, inconsistent with the concept of operating repairs for which liability exists under the bonds. Euclid-Mississippi v. Western Cas. & Sur. Co., 249 Miss. 779, 163 So. 2d 904 (1964).

The surety on a bond given under this section [Code 1942, § 8041] was not liable to a conditional vendor for the balance due by the contractor-vendee on tractors and road scrapers which would not be substantially used on the bonded project, but which upon completion would become part of the contractor's permanent capital plant, and would serve other contracts as well. Euclid-Mississippi v. Western Cas. & Sur. Co., 249 Miss. 779, 163 So. 2d 904 (1964).

The bond for public improvement is designed for the protection of those who furnish materials which either enter into and become a permanent part of the improvement, or are substantially consumed in the course of its construction. Euclid-Mississippi v. Western Cas. & Sur. Co., 249 Miss. 779, 163 So. 2d 904 (1964).

The surety on a public contractor's bond, conditioned on the payment of all persons furnishing labor, material, equipment or supplies, is liable to the unpaid materialman of a sub-contractor. Mississippi Rd. Supply Co. v. Western Cas. & Sur. Co., 246 Miss. 510, 150 So. 2d 847 (1963).

A prime contractor compelled by a subcontractor's default to complete his contract becomes subrogated to all rights of the subcontractor in money withheld pending completion of the contract. United States v. Raley Contracting Co., 210 F. Supp. 54 (N.D. Miss. 1962).

2.-5. [Reserved for future use.]

6. Under former law—generally.

The former section was applicable only to contracts with the state highway commission for highway construction. Watts v. Western Cas. & Sur. Co., 210 Miss. 211, 49 So. 2d 255 (1950).

7. —Contractor's liability for supplies, equipment, and the like.

In an action against surety on a contractor's bond executed by person contracting with political subdivision, rent and freight on a dragline and light plant used by the contractor in dredging and improving a ditch and canal are not to be construed as labor and materials furnished in the work of construction. Watts v. Western Cas. & Sur. Co., 210 Miss. 211, 49 So. 2d 255 (1950).

It is too late to raise for the first time on appeal the issue that the declaration made no mention of the statutory obligation or that the supplies were furnished for, and in the course of, the performance of a state highway contract, where testimony was admitted without objection which presented all the elements of the proof necessary to bring the case within the statute. Arkansas Fuel Oil Co. v. Trinidad Asphalt Mfg. Co., 189 Miss. 366, 198 So. 41 (1940).

The liability imposed upon the original contractor to pay all persons who furnish labor, material, equipment or supplies for, and in the course of, the performance of the contract, includes materials and supplies furnished to a subcontractor. Arkansas Fuel Oil Co. v. Trinidad Asphalt Mfg. Co., 189 Miss. 366, 198 So. 41 (1940).

Bond of contractor insuring prompt payment of those furnishing equipment for construction of state highway covers equipment furnished to subcontractor. Shuptrine v. Jackson Equip. & Serv. Co., 168 Miss. 464, 150 So. 795 (1933).

"Equipment" within bond, includes rental on crane rented to subcontractor. Shuptrine v. Jackson Equip. & Serv. Co., 168 Miss. 464, 150 So. 795 (1933).

Contractual provision that rental of crane was to be paid out of first moneys becoming due subcontractor from contractor, did not waive protection of contractor's statutory bond. Shuptrine v. Jackson Equip. & Serv. Co., 168 Miss. 464, 150 So. 795 (1933).

ATTORNEY GENERAL OPINIONS

The Mississippi Transportation Commission may not enter into a supplemental agreement to a construction contract which alters the nature of or increases the aggregate of the scope of work to be conducted under the contract unless exigent circumstances exist. Robinson, February 22, 1995, A.G. Op. #95-0100.

The Mississippi Transportation Commission is authorized to make and promulgate reasonable rules and regulations, to provide and adopt standard specifications, including specifications requiring a warranty or warranties of workmanship, materials or performance, including asphalt paving, as a condition of letting or awarding a road or bridge construction contract. Warren, January 8, 1999, A.G. Op. #98-0759.

The Mississippi Department of Transportation (MDOT) has the authority in times of emergency to utilize the "design-build" process described in Section 65-1-85 on bridge replacement projects, and, due to the emergency nature of the projects, MDOT is authorized to utilize the "design-build" process on more than one project even if the cost of each individually exceeds $50,000,000.00. Brown, Sept. 27, 2005, A.G. Op. 05-0491.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Works and Contracts §§ 1 et seq.

Law Reviews. Dunn, Construction Contract Claims and Litigation — Suits on Public Bonds and Suits on Private Bonds. 55 Miss LJ 431, September 1985.

§ 65-1-86. Duty of Attorney General with respect to illegal contracts or criminal acts.

The Attorney General shall, with or without a request by the State Highway Commission, bring any lawsuit, in the name of the State Highway Commission, to recover any monies lost through illegal contracts, fraud, false pretense or any other criminal act, and the highway commission shall, at the direction of the Attorney General, supply internal audits or perform any other necessary act to furnish the attorney general with any evidence pertaining to such loss for use by the Attorney General in the preparation of said lawsuits.

SOURCES: Laws, 1973, ch. 418, § 1, eff from and after passage (approved March 29, 1973).

Cross References — Office, powers and duties of attorney general, see §§ 7-5-1 et seq.

§ 65-1-87. Purchases of war surplus equipment, supplies and materials.

The Mississippi State Highway Commission is hereby authorized and empowered to purchase war surplus equipment, supplies, and materials from the General Services Administration of the United States of America without the necessity of advertising for bids for such materials and equipment and supplies, even though the cost of such materials, equipment, and supplies exceed the sum of One Thousand Dollars ($1,000.00), provided that such equipment, materials, and supplies shall be purchased for less than the then prevailing market price.

SOURCES: Codes, 1942, § 8041.5; Laws, 1960, ch. 361, §§ 1-3.

§ 65-1-89. Contract arbitration provisions.

Every formal contract made by or on behalf of the Mississippi Transportation Commission for the construction of any building, highway, or work, or the doing of any repairs shall contain and include a provision for settlement by arbitration, if requested by either party to the contract, of all claims and disputes and other matters arising out of such contract, or the failure or refusal to perform the whole or any part thereof.

SOURCES: Codes, 1942, § 8041.3; Laws, 1970, ch. 425, § 1; Laws, 2007, ch. 502, § 8, eff from and after July 1, 2007.

Cross References — Arbitration of controversies arising from construction contracts and related agreements generally, see §§ 11-15-101 et seq.

Arbitration proceedings, see § 65-1-91.

Mississippi Transportation Commission generally, see § 65-1-8.

§ 65-1-91. Arbitration proceedings and effect.

Upon demand for arbitration by any party to a contract with the Mississippi Transportation Commission for the construction of any building, highway or work, or the doing of any repairs, such arbitration shall proceed in all respects and shall have the same effect as authorized and provided by Sections 11-15-1 through 11-15-37. Any arbitration decision shall be binding.

SOURCES: Codes, 1942, § 8041.4; Laws, 1970, ch. 425, § 2; Laws, 1984, ch. 495, § 33; reenacted and amended, Laws, 1985, ch. 474, § 21; Laws, 1986, ch. 438, § 47; Laws, 1987, ch 483, § 48; Laws, 1988, ch. 442, § 45; Laws, 1989, ch. 537, § 43; Laws, 1990, ch. 518, § 44; Laws, 1991, ch. 618, § 44; Laws, 1992, ch. 491, § 46; Laws, 2007, ch. 502, § 9, eff from and after July 1, 2007.

Cross References — Arbitration of controversies arising from construction contracts and related agreements generally, see §§ 11-15-101 et seq.

Immunity of state and political subdivisions from liability and suit for torts and torts of its employees, see §§ 11-46-1 et seq.

Mississippi Transportation Commission generally, see § 65-1-8.

§§ 65-1-93 through 65-1-109. Superseded.

Superseded by Chapter 39 of Title 43, Mississippi Code of 1972.

[Codes, 1942, §§ 8023.5-01 to 8023.5-09; Laws, 1970, ch. 440, §§ 1-9; 1971, ch. 508, §§ 1-5]

Editor's Note — Former §§ 65-1-93 through 65-1-109 pertained to relocation programs.

Laws of 1972, ch. 526, § 15, effective July 1, 1972, provides that Chapter 39 of Title 43 supersedes §§ 65-1-93 through 65-1-109, Code of 1972. Section 15 reads as follows: "SECTION 15. From and after the effective date of this act, sections 8023.5-01 through 8023.5-11, inclusive, Mississippi Code of 1942 [§§ 65-1-93 through 65-1-109, Mississippi Code of 1972], shall be superseded by this act. Provided, however, that nothing contained in this act shall in any way affect or apply to any dealings, negotiations or actions commenced prior to the effective date of this act, under sections 8023.5-01 through 8023.5-11, inclusive, Mississippi Code of 1942 [§§ 65-1-93 through 65-1-109, Mississippi Code of 1972]; but all such dealings, negotiations or actions shall be concluded under the provisions of said sections under which commenced, whether such conclusion is before or after the effective date of this act. Said sections 8023.5-01 through 8023.5-11, inclusive, Mississippi Code of 1942 [§§ 65-1-93 through 65-1-109, Mississippi Code of 1972], shall remain in full force and effect after the effective date of this act as to all such dealings, negotiations and actions so commenced prior to the effective date of this act."

§ 65-1-110. Mississippi Department of Transportation Equipment Purchase Fund established.

There is hereby created in the State Treasury a special fund to be designated as the Mississippi Department of Transportation Equipment Purchase Fund into which shall be deposited such funds as may be appropriated by the Legislature, any funds obtained from the "buy back" option offered by equipment manufacturers or suppliers of certain types of equipment, funds obtained from the sale of equipment by the Mississippi Department of Transportation and funds obtained from insurance settlements with regard to equipment utilized by the Mississippi Department of Transportation. Money deposited into the fund shall not lapse at the end of any fiscal year and investment earnings on the proceeds in such special fund shall be deposited into such fund. Money from such fund shall be disbursed therefrom upon warrants issued by the State Fiscal Officer upon requisitions signed by the Executive Director of the Mississippi Department of Transportation to purchase or lease equipment for the Mississippi Department of Transportation.

SOURCES: Laws, 2002, ch. 544, § 1, eff from and after July 1, 2002.

§ 65-1-111. Highway funds; bond and interest funds.

All monies from any source provided by law shall be covered and paid into the State Treasury as other public funds are paid, and it shall be the duty of the Department of Finance and Administration to advise the Mississippi Transportation Commission of the amount of money allotted to the commission on hand from time to time. It shall be the duty of the Department of Finance and Administration to place and allocate those funds so covered into the State Treasury in the State Highway Fund. The interest earned on the investment of any highway funds shall be paid into the State Highway Fund, except as otherwise provided in Section 15 of Laws, 2004, ch. 595. If any highway bonds or notes are issued, the Transportation Commission will adopt a resolution requesting the Bond Commission to issue such bonds or notes as may be authorized and a "bond and interest sinking fund" and "note fund" shall be kept separate from the highway fund by the State Treasurer pursuant to the bond resolution adopted by the State of Mississippi Bond Commission.

SOURCES: Codes, 1930, § 5010; 1942, § 8042; Laws, 1930, ch. 47; Laws, 1948, ch. 332, § 19; Laws, 1980, ch. 542; Laws, 1986, ch. 330; Laws, 2000, ch. 447, § 1; Laws, 2004, ch. 595, § 16, eff from and after July 1, 2004.

Editor's Note — Laws, 1986, ch. 479, §§ 1 and 2, eff from and after passage (approved April 14, 1986), provide as follows:

"SECTION 1. The State Highway Commission, acting through the Director of the State Highway Department, is hereby authorized and directed to transfer the sum of Six Hundred Thirty-two Thousand Five Hundred Forty-one Dollars ($632,541.00) out of any money in the special fund accounts within the State Treasury to the credit of the State Highway Department into the General Fund of the State Treasury, for the fiscal year 1986.

"SECTION 2. The Director of the State Highway Department shall make requisition upon the State Auditor of Public Accounts and thereupon the Auditor of Public Accounts shall issue his warrant to the State Treasurer, who shall immediately pay same into the General Fund of the State Treasury as provided by law."

Laws, 2004, ch. 595, § 15 provides:

"SECTION 15. During the period beginning upon July 1, 2004, and through June 30, 2005, any interest earned on state-source special funds to the credit of the Mississippi Department of Transportation shall be deposited by the State Treasurer into the State General Fund."

Cross References — Sale of used building materials by Mississippi Department of Transportation, see § 65-1-125.

Provision governing method of expenditure of highway funds, see § 65-1-145.

State aid road construction in counties, see §§ 65-9-1 et seq.

Use of monies in State Highway Department Fund to match federal funds for preliminary engineering, see § 65-25-129.

JUDICIAL DECISIONS

1.-5. [Reserved for future use.]
6. Under former law.

1.-5. [Reserved for future use.]

6. Under former law.

Highway commission was unauthorized to expend any funds except those allotted to it by legislative direction. State Hwy. Comm'n v. Gulley, 167 Miss. 631, 145 So. 351 (1933).

Right to expend gasoline tax funds allocated to state highway commission included right to expend such funds to discharge claims or liabilities arising out of or necessarily incidental to complete accomplishment of statutory purposes, but did not include right to expend such funds for purpose not embraced within statutes. State Hwy. Comm'n v. Gulley, 167 Miss. 631, 145 So. 351 (1933).

Until withdrawn and expended for authorized purposes, legislature has plenary power over gasoline tax funds paid into state treasury to highway commission's credit. State Hwy. Comm'n v. Gulley, 167 Miss. 631, 145 So. 351 (1933).

RESEARCH REFERENCES

ALR. What constitutes "construction or maintenance" of highways or roads in constitutional provision or statute allowing disbursements from state road fund for that purpose. 36 A.L.R.5th 657.

Am Jur. 39 Am. Jur. 2d, Highways, Streets, and Bridges §§ 130 et seq.

CJS. 40 C.J.S., Highways §§ 188 et seq.

§ 65-1-112. Funds to be expended on basis of state need.

No funds provided to the state highway fund shall be expended on a set division of such funds by district, but shall be expended on the basis of state needs as a whole.

SOURCES: Laws, 1981, ch. 464, § 29, eff from and after July 1, 1981.

§ 65-1-113. Audit and budget.

The books and accounts of the Mississippi Department of Transportation shall be audited at the end of each fiscal year by the State Auditor. A copy of the audit shall be filed with the Governor, the Legislative Budget Office, and the

Department of Finance and Administration and a copy kept on file in the Office of the Mississippi Transportation Commission. The audit shall be so segregated that it shall show in detail the expenditures of the Mississippi Department of Transportation for the period involved.

At a regular meeting in April of each year prior to the beginning of each July 1 fiscal year, the Mississippi Transportation Commission shall adopt a complete, detailed and itemized budget of each construction program, maintenance and administration based on information as required by the Legislative Budget Office, which budget shall not exceed a reasonably anticipated income of the commission for the succeeding fiscal year, and the essential features of such budget shall be spread at large on the minutes of the commission. A copy of the detailed budget shall be filed with the Governor and three (3) copies each with the Legislative Budget Office and the Department of Finance and Administration on or before May 30 of each year and shall cover all anticipated expenditures for construction, maintenance and all other expenditures for the ensuing fiscal year. The commission shall not make expenditures in excess of its published budget or any item thereof without written notice to the Legislative Budget Office and prior approval of the Department of Finance and Administration, except in case of extraordinary, unusual or unprecedented occurrences arising by reason of unforeseen events, floods, hurricanes or other acts of God or force majeure, in which event, upon the declaration of emergency and necessity spread at large upon the minutes, appropriate and necessary emergency expenditures may be made.

SOURCES: Codes, 1930, § 5011; 1942, § 8043; Laws, 1930, ch. 47; Laws, 1946, ch. 332, § 20; Laws, 1958, ch. 371; Laws, 1966, ch. 492, § 1; Laws, 1975, ch. 307; Laws, 1984, ch. 488, § 266; repealed, 1985, ch. 424, § 2; amnd, 1985, ch. 455, § 11; Laws, 1999, ch. 418, § 1, eff from and after passage (approved Mar. 18, 1999.)

Editor's Note — Laws, 1985, ch. 424, § 2, purported to repeal this section effective July 1, 1985. Subsequently, § 11 of ch. 455, effective from and after passage (approved March 29, 1985), amended § 65-1-113 without referring to ch. 424 which repealed the section. As set out above, this section contains the language of ch. 455, which represents the latest legislative expression on the subject.

Section 27-104-6 provides that whenever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration ".

Cross References — Joint Legislative Budget Committee and Legislative Budget Office, generally, see §§ 27-103-101 et seq.

Preparation of a budget by the Legislative Budget Office, see §§ 27-103-113 et seq.

Uniform accounting system, see § 65-1-115.

Post audit of funds expended and submission of administrative budget, see § 65-1-149.

§ 65-1-115. System of accounting.

The Department of Finance and Administration, in cooperation with the commission or its comptroller, shall formulate and prescribe a uniform system of accounting for all monies expended by the Mississippi Transportation

Commission. The commission shall have prepared and issued all necessary forms, rules, and regulations for the installation and operation of said system of accounting, and it shall be the duty of the Transportation Commission, acting through its Executive Director, in allowing any account to request, by requisition the Department of Finance and Administration, that a warrant be issued therefor. The commission shall provide proper books covering requisitions to be drawn from the State Highway Fund. In the event any highway bonds or notes are issued, additional books covering a "bond and interest sinking fund" and "note fund" shall likewise be provided.

SOURCES: Codes, 1930, § 5012; 1942, § 8044; Laws, 1930, ch. 47; Laws, 1948, ch. 332, § 21; Laws, 1966, ch. 485, § 3; Laws, 2000, ch. 447, § 2, eff from and after passage (approved Apr. 18, 2000.)

Cross References — State fiscal officer, generally, see §§ 7-7-3 et seq.

JUDICIAL DECISIONS

1.-5. [Reserved for future use.]
6. Under former law.

1.-5. [Reserved for future use.]

6. Under former law.

Highway commission was unauthorized to expend any funds except those allotted to it by legislature. State Hwy. Comm'n v. Gulley, 167 Miss. 631, 145 So. 351 (1933).

Until withdrawn and expended for authorized purposes, legislature has plenary power over gasoline tax funds paid into state treasury to highway commission's credit. State Hwy. Comm'n v. Gulley, 167 Miss. 631, 145 So. 351 (1933).

Right to expend gasoline tax funds allocated to state highway commission included right to expend such funds to discharge claims or liabilities arising out of or necessarily incidental to complete accomplishment of statutory purposes, but did not include right to expend such funds for purpose not embraced within statutes. State Hwy. Comm'n v. Gulley, 167 Miss. 631, 145 So. 351 (1933).

§ 65-1-117. County and federal funds for road construction.

The board of supervisors of any county is hereby authorized in its discretion to deposit with the State Treasurer, as trustee, funds representing the county's or district's share of the cost of construction of any project in that county.

The State Treasurer is hereby authorized to continue to receive and deposit to the credit of the State Highway Fund, all funds from the federal government made available by it for road construction purposes, and the treasurer shall notify the commission of the amounts so received.

All accounts against the above mentioned funds shall be certified by the director of the State Highway Department, who shall request the auditor of public accounts to issue his warrant on the State Treasurer for the amount of the account, and the treasurer shall pay same if sufficient funds are available, all in the manner prescribed herein or as may be required by law.

SOURCES: Codes, 1930, § 5013; 1942, § 8045; Laws, 1930, ch. 47; Laws, 1948, ch. 332, § 22.

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation.

Section 65-1-1 provides that whenever the term 'director,' meaning the Chief Administrative Officer of the State Highway Department, appears in the laws of the State of Mississippi, it shall mean the Executive Director of the Mississippi Department of Transportation.

RESEARCH REFERENCES

Am Jur. 39 Am. Jur. 2d, Highways, Streets, and Bridges §§ 132-134.

§ 65-1-119. Repealed.

Repealed by Laws, 1985, ch. 424, § 3, eff from and after July 1, 1985.

[Codes, 1930, § 5014; 1942, § 8046; Laws, 1930, ch. 47; 1948, ch. 332, § 23]

Editor's Note — Former § 65-1-119 related to reports of the state highway commission to the legislature.

§ 65-1-121. Inventory and report of property.

A full, complete, and detailed inventory of all property, other than rights of ways and lands containing road building materials, shall be continued as heretofore prepared and filed by the State Highway Department. All of said properties so reported and inventoried and all other property of every kind or description shall be entered in detail and by items in or upon a card index, or other modern filing system, and thereafter all property which may be purchased or acquired by the commission shall be likewise noted and indexed in such filing system so as to keep a complete record of the identity, cost, purpose, use, and location of said property at all times, so that inventory thereof may easily be made; and when disposed of, a complete record of the disposition thereof shall likewise be made. It shall be the duty of each of the highway commissioners and of the director to make a full report annually of all monies or property that have or has come into his possession or control and to faithfully account therefor.

SOURCES: Codes, 1930, § 5015; 1942, § 8047; Laws, 1930, ch. 47; Laws, 1948, ch. 332, § 24.

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation.

Cross References — Sale of used road building materials, see § 65-1-125.

§ 65-1-123. Sale or disposal of unnecessary property.

(1) Except as otherwise provided in subsection (10) of this section, whenever any personal property has been acquired in any manner by the Mississippi Transportation Commission for public use and in the opinion of the commission, all or any part of the property becomes unnecessary for public use, the commission is authorized to dispose of such property for a fair and reasonable cash market price. Any such sale shall be a sale upon the receipt of sealed bids after reasonable advertisement for bids in such manner and at such time and place as the commission may deem proper and advisable, except that the commission may sell at private sale any such personal property not necessary for public purposes the cash market value of which is less than Five Hundred Dollars ($500.00); however, if the personal property is timber, the commission may sell at private sale any such timber not necessary for public purposes the cash market value of which is less than Five Thousand Dollars ($5,000.00), except that whenever persons, groups or agencies are permitted to remove a quantity of timber from highway rights-of-way, and the cash market value of the timber is estimated by the commission to be less than One Thousand Dollars ($1,000.00), it shall not be necessary to have the timber cruised or appraised and the commission may sell the timber at private sale. The commission shall have the right to reject any and all bids in its discretion and to sell the property theretofore advertised at private sale for not less than the highest of the rejected bids, or to readvertise.

(2) Except as otherwise provided in subsections (3) and (4) of this section, whenever real property, with the exception of easements for highway purposes, has been acquired by the Mississippi Transportation Commission, in any manner, for public use and in the opinion of the commission all or any part thereof becomes unnecessary for public use, the same shall be declared on the minutes of the commission as excess property and shall be sold at private sale at market value. If the excess property was a total take from the original owner, then the commission shall offer to such owner, in writing, the first right of refusal to purchase such excess property; however, if after due diligence the original owner cannot be located, then the commission shall offer the first right of refusal to purchase the property to the adjoining property owner or owners. If the excess property was a partial take from the current owner of the parcel of real property from which the excess property was originally taken, then the commission shall be required to offer in writing the first right of refusal to purchase such excess property to such owner. If within forty-five (45) days any owner to whom the commission has offered the first right of refusal under the provisions of this subsection fails to accept the offer to purchase, the property shall then be offered to the adjoining property owner or owners. If within forty-five (45) days an adjoining property owner fails to accept the offer to purchase, then the excess property shall be sold to the highest bidder upon the receipt by the commission of sealed bids after reasonable advertisement for bids in such manner and at such time and place as the commission deems proper and advisable; however, the commission shall have the right to reject

any and all bids in its discretion and to sell the property theretofore advertised at private sale for not less than the highest of the rejected bids, or to readvertise. Upon payment of the purchase price, the executive director of the department, upon due authorization by the commission entered on its minutes, may execute a quitclaim deed conveying such property to the purchaser.

(3) Whenever the commission acquires by fee simple interest any property determined to be an uneconomic remnant outside the right-of-way, then the commission may sell the property to the adjoining property owner or owners for an amount not less than the market value established by the county tax assessor or a state licensed or certified appraiser.

(4) Whenever the commission desires to sell any real property used as maintenance lots, the property shall be sold to the highest bidder upon the receipt by the commission of sealed bids and after reasonable advertisement for bids in such manner and at such time and place as the commission deems proper and advisable; however, the commission, in its discretion, may reject any and all bids and sell the property advertised at private sale for not less than the highest of the rejected bids, or may readvertise. Upon payment of the purchase price, the executive director of the department, upon authorization by the commission entered on its minutes, may execute a quitclaim deed conveying the property to the purchaser.

(5) All easements for highway purposes shall be released when they are determined on the minutes of the commission as no longer needed for such purposes, and when released, they shall be filed by the department in the office of the chancery clerk in the county where the property is located.

(6) In no instance shall any part of any property acquired by the commission, or any interest acquired in such property, including, but not limited to, easements, be construed as abandoned by nonuse, nor shall any encroachment on such property for any length of time constitute estoppel or adverse possession against the state's interests.

(7) It is the intent of the Legislature that the Transportation Commission shall declare property it has acquired and which is no longer needed for public purposes as excess and to sell and/or dispose of such excess property in accordance with the provisions of this section as soon as practicable after such property becomes excess in fact. Unnecessary or excess property or property interests shall be disposed of only upon order of the Transportation Commission on its minutes as provided in this section.

(8) Whenever any real property has been acquired by the Transportation Commission and in the opinion of the commission all or any part of the property will not be utilized in the near future, the property shall be so declared by the Transportation Commission on its minutes and the commission may lease or rent the property for its market value.

(9) This section shall not apply to any sale, donation, exchange or other conveyance of real property when the Legislature otherwise expressly authorizes or directs the commission to sell, donate, exchange or otherwise convey specifically described real property.

(10)(a) As an alternative to the sale of timber under subsection (1) of this section, the Mississippi Transportation Commission may enter into an agreement with the State Forestry Commission for the general supervision and management of timber on selected portions of the rights-of-way of the interstate highway system and those completed segments of four-lane highways in the state. Such an agreement may prescribe the details of, and authority and control over, the full range of forestry management practices. Seventy-five percent (75%) of any money collected from the sale of timber on rights-of-way, less any expenses associated therewith, shall be deposited into the Education Enhancement Fund created in Section 37-61-33, and the remainder shall be deposited into the State Highway Fund to be expended solely for the repair, maintenance, construction or reconstruction of highways.

(b) Subject to the provisions of paragraph (a) of this subsection, the Mississippi Transportation Commission may, after consultation with the State Forestry Commission, adopt such rules and regulations with regard to the management, sale or disposal of timber on highway rights-of-way as it considers appropriate; provided, however, such rules and regulations shall be uniform throughout the state and shall be designed to maximize the value of such timber or minimize the cost of removing such timber.

SOURCES: Codes, 1942, § 8059; Laws, 1940, ch. 162; Laws, 1948, ch. 332, § 32; Laws, 1983, ch. 324; Laws, 1988, ch. 597, § 1; Laws, 1991, ch. 569, § 1; 1993, ch. 606, § 1; Laws, 1994, ch. 410, § 1; Laws, 1998, ch. 434, § 1; Laws, 2002, ch. 437, § 2; Laws, 2003, ch. 470, § 1, eff from and after July 1, 2003.

Editor's Note — Laws, 1988, ch. 597, § 2, provides as follows:

"SECTION 2. Nothing in this act shall affect the validity of any conveyance by the State Highway Commission in any excess real property, easement, or other interest in real property less than ownership in fee simple, which was granted or conveyed by the Highway Commission prior to the passage of this act."

Laws, 1993, ch. 606, § 2, effective July 1, 1993, provides as follows:

"SECTION 2. Nothing in this act shall affect the validity of any conveyance by the Mississippi Transportation Commission in any excess real property, easement or other interest in real property which was granted or conveyed by the commission before July 1, 1993."

Cross References — Sale of timber on highway rights-of-way by state highway commission, see § 65-1-8.

ATTORNEY GENERAL OPINIONS

Section 65-1-123 authorizes the Commission to lease railroad property on an interim basis, once purchased, if it determines that said property will not be utilized by the Commission in the near future. Robinson, May 31, 1996, A.G. Op. #96-0352.

§ 65-1-125. Sale of used road building materials.

The State Highway Department is hereby authorized, in its discretion, to sell used road building materials of every kind, nature, and description to the various boards of supervisors for a reasonable and fair price. The funds received as a result of a sale contemplated by this section shall be deposited in the state treasury as required by Section 65-1-111.

SOURCES: Codes, 1942, § 8041.7; Laws, 1962, ch. 253, eff from and after passage (approved May 25, 1962).

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation.

Cross References — Powers of boards of supervisors generally, see § 19-3-41.

§ 65-1-127. Participation in Federal Highway Administration Fellowship Program in Highway Safety.

The Mississippi State Highway Commission is authorized and empowered to cooperate with the Federal Highway Administration Fellowship Program in Highway Safety by granting permission of any of its employees accepted for participating in such program to be granted a leave of absence to obtain the schooling without loss of salary while gaining the advanced training to better equip them for service to the state highway department.

In addition to requirements set forth in the Federal Highway Administration's regulations, any such employee to be eligible for such training must agree to continue to work with the Mississippi State Highway Department for at least three (3) years after completing the fellowship study period.

At no time shall more than three (3) employees be on such leave from the Mississippi State Highway Department.

SOURCES: Laws, 1975, ch. 332, eff from and after passage (approved March 6, 1975).

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation, and whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 65-1-129. Security officers; definitions.

For purposes of Sections 65-1-129 through 65-1-137, unless the context requires otherwise, the following terms shall have the meanings ascribed herein:

(a) "Highway Commission" means the Mississippi State Highway Commission.

(b) "Qualified person" means a person who:

(i) Has met all the educational and training requirements of a course of study prescribed and conducted by the Mississippi Law Enforcement Officers' Training Academy; and

(ii) Is of good moral character and has not been convicted of any crime involving moral turpitude.

SOURCES: Laws, 1979, ch. 373, § 1, eff from and after July 1, 1979.

Cross References — Mississippi Law Enforcement Officers Training Academy, see §§ 45-5-1 et seq.

References to "Mississippi State Highway Commission" shall mean the Mississippi Transportation Commission, see § 65-1-1.

§ 65-1-131. Security officers; appointment; oath; identification; powers; reimbursement by district.

(1) The Mississippi Transportation Commission may appoint and commission qualified persons as security officers of the Mississippi Department of Transportation. Any such security officer so appointed shall be a full-time employee of the Transportation Department and shall not be employed by any privately owned guard or security service, and shall at all times be answerable and responsible to the Mississippi Transportation Commission and the Executive Director of the Mississippi Department of Transportation.

(2) A security officer appointed and commissioned as provided in subsection (1) of this section shall, before entering upon his duties as such officer, take the oath of office prescribed by Section 268, Mississippi Constitution of 1890, which shall be endorsed upon his commission. The commission, with the oath endorsed upon it, shall be entered in the official minute book of the Transportation Commission.

(3) A security officer appointed and commissioned pursuant to the provisions of subsection (1) of this section, shall, while engaged in the performance of his duties, carry on his person a badge identifying him as a security officer of the Mississippi Department of Transportation and an identification card issued by the Transportation Commission. When in uniform, each such security officer shall wear his badge in plain view.

(4) A security officer appointed and commissioned under subsection (1) of this section may exercise the same powers of arrest and the right to bear firearms that may be exercised by any state, municipal or other police officer in this state, but only with respect to violations of law which are committed on or within buildings, property or facilities owned by or under the jurisdiction of the Transportation Commission or the Transportation Department. Any right granted under this subsection in no way relieves the requirements of appropriate affidavit and warrant for arrest from the appropriate jurisdiction and authority pursuant to the laws of this state.

(5) On behalf of each person who is employed as a security officer under subsection (1) of this section and who is trained as a security officer at the Mississippi Law Enforcement Officers' Training Academy, the Transportation Department shall be required to pay to the academy at least an amount equal to the per student cost of operation of said academy as tuition.

SOURCES: Laws, 1979, ch. 373, § 2; Laws, 1996, ch. 425, § 1, eff from and after July 1, 1996.

Cross References — Right of highway safety patrol members to bear arms, see § 45-3-27.

Mississippi Law Enforcement Officers' Training Academy, see §§ 45-5-1 et seq.

Arrest and detention by security officer, see § 65-1-133.

Private security contracts, see § 65-1-136.

Use of security officers at hospitality stations, see § 65-31-1.

§ 65-1-133. Security officers; arrest and detention.

A person arrested by a security officer appointed and commissioned under Section 65-1-131 shall be handled or processed in the jurisdiction in which the offense was committed, in the same manner as if the arrest had been made by a sheriff or constable. If such security officer detains any person arrested by him, he shall forthwith deliver the arrested person to the sheriff of the county in which the offense was committed, and such security officer shall have no further authority as to the custody of such arrested person.

SOURCES: Laws, 1979, ch. 373, § 3; Laws, 1996, ch. 425, § 2, eff from and after July 1, 1996.

§ 65-1-135. Security officers; termination of authority.

The powers and authority of any security officer may be terminated at any time by the Highway Commission.

SOURCES: Laws, 1979, ch. 373, § 4, eff from and after July 1, 1979.

§ 65-1-136. Authorization of Mississippi Transportation Commission to contract with private security firms; requirements and limitations pertaining to private security officers.

(1) In addition to employing security officers as full-time employees of the Mississippi Department of Transportation as authorized under subsection (1) of Section 65-1-131, the Mississippi Transportation Commission may contract with any private security firm or business authorized to do business in this state for the purpose of providing security for buildings, property or facilities owned by or under the jurisdiction of the Transportation Commission or the Transportation Department, or for buildings, property or facilities located on a trunkline highway at or near a point of entry into this state in which a welcome center or hospitality station has been established by the Mississippi Department of Economic and Community Development.

(2) A security officer of a security firm or business with which the commission has contracted pursuant to the provisions of this section, while engaged in the performance of his duties, shall carry on his person a badge identifying him as a security officer and an identification card issued by the

Transportation Commission. When in uniform, each such security officer shall wear his badge in plain view.

(3) A security officer of a security firm or business with which the commission has contracted pursuant to the provisions of this section shall have only such powers of arrest as may be exercised by a private citizen of this state and only such right to bear firearms or weapons while engaged in the performance of his duties as authorized under Section 97-37-7.

SOURCES: Laws, 1996, ch. 425, § 3; Laws, 2000, ch. 471, § 1, eff from and after passage (approved Apr. 25, 2000.)

Cross References — Status of private security officers as independent contractors, see § 65-1-137.

Use of private security officers at hospitality stations, see § 65-31-1.

§ 65-1-137. Security officers considered independent contractors.

All security officers of any security firm or business with which the Transportation Commission has contracted under Section 65-1-136 shall be independent contractors and shall not be considered as employees under Chapter 46 of Title 11, Mississippi Code of 1972.

SOURCES: Laws, 1979, ch. 373, § 5; Laws, 1996, ch. 425, § 4, eff from and after July 1, 1996.

§ 65-1-139. Repealed.

Repealed by Laws, 1985, ch. 327, effective from and after March 15, 1985. [En Laws, 1980, ch. 329]

Editor's Note — Former § 65-1-139 authorized the state to continue to actively participate in the multistate transportation system advisory board.

§ 65-1-141. Annual submission of three-year plan for maintenance, construction and relocation of highway system; determination of priorities for expenditure of funds.

(1)(a) The Highway Commission shall annually have the Highway Department prepare a three-year plan for the maintenance, construction, reconstruction and relocation of the State Highway System. The plan shall include:

(i) For each interstate, primary, secondary and other highway or road system under the jurisdiction of the Highway Commission, a list and detailed description of those highways, or segments thereof, on the highway system which are determined to have the highest priority for maintenance and which can be maintained within the three-year period from funds available or estimated to be made available for such purpose;

(ii) For each interstate, primary, secondary and other highway or road system under the jurisdiction of the Highway Commission, a list and detailed description of those highways, or segments thereof, on the highway system which are determined to have the highest priority for construction, reconstruction or relocation and for which contracts can be let for construction, reconstruction or relocation within the three-year period from funds available or estimated to be available for such purpose;

(iii) The reasons for the priority assigned to highways, or segments thereof, pursuant to the criteria established in the following subsection (1)(b), and the annual cost and total estimated cost of completion for each such project; and

(iv) A synopsis of any analyses or studies considered by the commission to develop the criteria in determining priorities.

(b) The Highway Commission shall determine the criteria on which the Highway Department shall assign priority for maintenance, construction, reconstruction and relocation of highways, or segments thereof, on each highway or road system under its jurisdiction, taking into consideration all of the following criteria:

(i) Public necessity and public safety;

(ii) Present and future economic benefit and commercial value;

(iii) Present and future traffic census; and

(iv) Route continuity.

Additionally, the Highway Commission shall take into consideration conditions potentially hazardous to the public safety at points on highways having substantial truck traffic entering and leaving the highway. In setting priorities for construction, the department shall take into consideration the construction of turning lanes at such points on highways to facilitate the safe movement of traffic.

(c) To develop the criteria to be used in determining priorities, the State Highway Commission may conduct public hearings; shall conduct analyses or studies of highway needs, utilizing highway department personnel; and shall consider highway needs analyses or studies submitted to them by the University Research Center, which is hereby directed to develop such highway needs analyses or studies with respect to the criteria set forth in subsection (1)(b)(ii) above and to timely submit or present such analyses or studies to the State Highway Commission.

(2) All funds appropriated and made available to the State Highway Department from any source within the state for maintenance, construction, reconstruction and relocation of the state highway system shall be expended on order of the State Highway Commission according to the priorities herein set forth and without regard to the provisions of Sections 65-3-29 through 65-3-33. The commission shall spread upon its minutes, from time to time, the priority of roads for application of such funds, the specific reasons for each priority so assigned, and the source and amount of funds applied to each project.

(a) All interstate funds apportioned to the State Highway Commission under the Federal Aid Highway Act of 1956 shall be allocated on the basis of need to complete the interstate system of highways to provide for the maximum commercial benefit to the state.

(b) All primary road construction money shall be used in the priorities established pursuant to subsection (1)(b) hereof.

(c) The State Highway Department shall match all available federal money for highways.

(d) Federal aid primary system as constituted. Priority of use of these funds shall be determined by roads meeting most of the criteria receiving priority established pursuant to subsection (1)(b) hereof.

(e) Secondary road construction money shall be used with priorities established by roads meeting most of the following criteria receiving priority:

(i) Roads in the order of the relative use and importance of such highways, as may be determined by the present and future traffic censuses thereof, taking into consideration their present and future use, convenience, public necessity and public safety, the connecting of Mississippi towns, cities and population centers and the economic contribution to the state should a specific highway be improved, the recorded maintenance expense and their continuity as highways through the state.

(ii) Roads which carry the most traffic.

(iii) Roads which connect the federal aid primary or interstate system in a uniform manner.

(iv) Roads which serve the most commercial value.

(v) Roads which are arterial in nature.

(vi) Roads which connect the major rural communities with similar communities in adjoining counties.

(f) The State Highway Department shall when funds are available match all available federal money for highways.

(3) Projects eligible for reimbursement under the provisions of P.L. 97-424 shall be exempt from the requirements of subsection (1)(a) of this section, but the State Highway Commission shall expend funds available to it for such projects in the priorities established pursuant to subsection (1)(b) hereof.

(4) All highway construction, reconstruction and relocation shall be by contract, let on competitive bid in the manner provided by statute. On any one (1) reconstruction project the total cost of which does not exceed Two Hundred Thousand Dollars ($200,000.00), reconstruction may be accomplished by highway department labor, equipment or materials. Nothing herein shall be construed to affect maintenance and repair work done or to be done on existing roads. When new programs require the utilization of professional services, the Mississippi State Highway Department may contract with, engage, or retain available, competent firms actively offering such professional services as a primary source of livelihood. "Professional services" is defined as services normally performed on a fee basis or contract by engineers, architects, business management, administrative and consulting firms.

SOURCES: Laws, 1981, ch. 464, § 22 sub 1; Laws, 1982, ch. 447; § 3; Laws, 1983, ch. 461; Laws, 1988, ch. 518, § 88, eff from and after July 1, 1988.

Editor's Note — Laws of 1981, ch. 464, § 23, provides as follows:

"SECTION 23. Passage of Section 22 of this act shall not affect any project of the corridor system presently under construction, or any project on the corridor system on which contracts have been let for construction. However, nothing in this section shall prevent the Highway Commission from adopting the most efficient and economical design possible."

Of the Code sections referred to in the first paragraph of subsection (2) of this section, §§ 65-3-29 and 65-3-31 were repealed by Laws, 1981, ch. 464, § 26, effective from and after July 1, 1981.

Section 65-3-33 referred to in (2) was repealed by Laws, 2000, ch. 574, § 11, eff from and after May 20, 2000.

Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation, and whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

Cross References — University Research Center, see §§ 37-141-1 et seq.

Method of expenditure of road funds after priorities are established, see § 65-1-145.

Federal Aspects — Federal Aid Highway Act of 1956, see heading "Other Provisions" following 23 USCS § 101.

Allocation of the provisions of P.L. 97-424, see Statutes at Large Tables in the "Tables" volume of USCS.

§ 65-1-143. Construction to commence at points having greatest traffic congestion.

When the specific location of a road has been established under the criteria contained in Section 65-1-141, construction on said roads shall commence at the point on each segment having the greatest traffic congestion.

SOURCES: Laws, 1981, ch. 464, § 22 sub 2, eff from and after July 1, 1981.

Editor's Note — Laws, 1981, ch. 464, § 23, provides as follows:

"SECTION 23. Passage of Section 22 of this act shall not affect any project of the corridor system presently under construction, or any project on the corridor system on which contracts have been let for construction. However, nothing in this section shall prevent the Highway Commission from adopting the most efficient and economical design possible."

§ 65-1-145. Method of expenditure of funds.

(1) The expenditure of funds now or hereafter available for the construction and reconstruction of primary and secondary roads by the Mississippi Transportation Commission, after having determined the priority in accordance with the requirements of Section 65-1-141 hereof, shall be as follows:

(a) Four-lane roads shall be constructed using the existing two-lane roads as part of such construction along portions of highways where the most recent average daily traffic count exceeds thirty percent (30%) of the route segment's capacity.

(b) Along such portions of highways where the most recent average daily traffic count does not exceed thirty percent (30%) of the capacity, two-lane roads shall be constructed, or existing two (2) lanes shall be widened, overlayed and reconstructed. Along such two-lane portions of highways passing lanes may be constructed where traffic congestion or special hazards dictate, or, where such two-lane segment connects two (2) existing four-lane roads, such segment may be constructed as a four-lane road for road continuity, using the existing two-lane road as part of such construction.

(c) Four-lane, full-control or limited access highways bypassing municipalities shall not be constructed until the Transportation Commission determines that the most recent average daily traffic count exceeds sixty percent (60%) of an existing two-lane route's capacity or determines that within a reasonable period of time after construction of such a four-lane, full-control or limited access municipal bypass the average daily traffic count will exceed sixty percent (60%) of an existing two-lane route's capacity. In no event shall such a bypass be constructed until approved by the Legislature by an appropriation of highway funds for a specific bypass, the construction of which has been recommended by the Executive Director of the Transportation Department pursuant to an order of the Transportation Commission duly recorded in the minutes of the commission and included in the three-year plan prepared pursuant to Section 65-1-141.

(d) Four-lane facilities may be constructed without using existing roadways as a part of such construction where it is necessary to construct four-lanes on new location because of bad alignment of existing roadway or where it is necessary to relocate or realign such roadway so as to connect with a four-lane facility in an adjoining state.

(e) Any four-lane bypass project of which all, or any portion thereof, is presently under construction, or let to contract, or which has been partially completed, except where right-of-way only has been acquired, may be completed in its entirety.

(f) Notwithstanding any limitation imposed above on the construction of four-lane roads, through June 30, 2007, contracts to construct four-lane roads may be let when (i) the federal government has provided money for four-laning a specific highway project, (ii) four-laning will enhance the current economic development of the area in which the four-lane road will be constructed, or (iii) the four-lane road to be constructed will connect with an existing four-lane road.

Before a route location is submitted to the Federal Highway Administration for approval, appropriate identification of the proposed route must be spread upon the minutes of the Mississippi Transportation Commission and approved by an affirmative vote of all three (3) transportation commissioners. Where a route location has been approved by the Federal Highway Administration and a relocation of the route is contemplated, the same procedure of advertisement and hearings upon request must be followed which is used in reaching an initial route location. Any change in location must be spread upon the minutes of the Mississippi Transportation Commission and be approved by an affirmative vote of all three (3) commissioners. The Mississippi Transportation Commission may alter construction standards of an approved route by an affirmative vote of all three (3) commissioners; provided that such change is in conformity with items (a), (b), (c), (d), (e) and (f) of this subsection.

(2) No state monies shall be expended on any construction project unless a Transportation Department engineer shall be assigned to such project.

SOURCES: Laws, 1981, ch. 464, § 22 sub 3; Laws, 1982, ch. 436; Laws, 1987, ch. 322, § 2, eff from and after July 1, 1987 (Governor's veto overridden by Legislature on March 12, 1987) (See Editor's Note below); Laws, 1994, ch. 557, § 2, eff from and after July 1, 1994.

Editor's Note — Laws of 1981, ch. 464, § 23, provides as follows:

"SECTION 23. Passage of Section 22 of this act shall not affect any project of the corridor system presently under construction, or any project on the corridor system on which contracts have been let for construction. However, nothing in this section shall prevent the Highway Commission from adopting the most efficient and economical design possible."

Laws of 1987, ch. 322, § 32, provides as follows:

"SECTION 32. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the tax laws amended by this act prior to the date on which this act becomes effective, whether such assessments, appeals, suits, claims or actions shall have been begun before the date on which this act becomes effective or shall thereafter be begun; and the provisions of such tax laws as amended by this act are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and execution of any warrant under such laws prior to the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply therewith."

Laws of 2002, ch. 582, § 10 provides as follows:

"SECTION 10. Notwithstanding any provision of law to the contrary, the Mississippi Transportation Commission shall submit the route location of Mississippi 477 (West Rankin Parkway) to the Federal Highway Administration for approval. Funding for Mississippi 477 (West Rankin Parkway) shall be limited to funds that originate from federal government, local government or private sources; however, the federal funds utilized for such route may only be federal funds allocated to the Central Transportation Commission District or federal funds specifically earmarked for Mississippi 477 (West Rankin Parkway)."

Cross References — Highway funds generally, see § 65-1-111.

§ 65-1-147. Reversion of links removed from state highway system to counties and political subdivisions.

Any link or part of the legislatively designated state highway system on July 1, 1981, that is removed from that system by appropriate statute shall revert for all purposes to the jurisdiction of the county and political subdivision in which it lies, and the link so removed may, in the discretion of the board of supervisors of the county in which it lies, be and become a part of the state aid roads system and be governed by the statutes regulating that system.

SOURCES: Laws, 1981, ch. 464, § 22 sub 4, eff from and after July 1, 1981.

Editor's Note — Laws of 1981, ch. 464, § 23, provides as follows:

"SECTION 23. Passage of Section 22 of this act shall not affect any project of the corridor system presently under construction, or any project on the corridor system on which contracts have been let for construction. However, nothing in this section shall prevent the Highway Commission from adopting the most efficient and economical design possible."

Cross References — Another provision regarding reversion of roads removed from the state road system to jurisdiction of counties, see § 65-1-59.

Reversion to jurisdiction of city any street used as a state highway, upon relocation or abandonment as such by the state, see § 65-1-75.

ATTORNEY GENERAL OPINIONS

The removal of a section of U.S. Highway from the state maintained highway system requires legislative action. Lawrence, Apr. 13, 2001, A.G. Op. #01-0164.

§ 65-1-149. Annual reports of transportation commission; commissioner's reports; administrative budget; post audit of funds expended and programs projected.

The Mississippi Transportation Commission shall file a detailed annual report with the Governor, Department of Finance and Administration, Secretary of the Senate, Clerk of the House of Representatives, and each member of the Senate and the House of Representatives requesting one, by January 15 of each year showing by county the construction and maintenance work in progress, the cost of each project with an indication of specific cost incurred and expenses paid during the fiscal year reported, a list of contracts let, a summary of the bids received, and the name and address of the contractor to whom the contract was awarded in each case. The annual report of the Transportation Commission shall also contain all receipts and disbursements during the preceding fiscal period and an estimate of the receipts for not less than the next fiscal period, plus the average cost of maintenance of each general type of road and the average cost of construction of the various types of surface. Any information and recommendations, including proposed legislation which in the opinion of the commission is needed, shall be contained in said report, in addition to any other required by law to be in the annual report of every department, agency or institution.

In addition to the report hereinabove required, there shall be presented, by January 15 of each year to the Senate Highways and Transportation Committee and to the House Transportation Committee, a report on the projected projects for the next three (3) years outlined in detail sufficient enough to facilitate an accurate assessment of such projects by such committees.

The Transportation Commission shall adopt a complete, detailed and itemized budget based on information as required by the Legislative Budget Office, which budget shall not exceed a reasonably anticipated income of the commission for the succeeding fiscal year, and the essential features of such budget shall be spread at large on the minutes of the commission. A copy of the detailed budget shall be filed with the Legislative Budget Office and the Department of Finance and Administration and shall cover all anticipated expenditures for the ensuing fiscal year. The commission shall not make expenditures in excess of its published budget or any item thereof without written notice to the Legislative Budget Office and prior approval of the Department of Finance and Administration, except in case of extraordinary, unusual or unprecedented occurrences arising by reason of unforeseen events, floods, hurricanes or other Acts of God or force majeure, in which event, upon the declaration of emergency and necessity spread at large upon the minutes, appropriate and necessary emergency expenditures may be made.

The books and accounts of the Mississippi Department of Transportation shall be audited at the end of each fiscal year by the State Auditor. A copy of the audit shall be filed with the Governor, the State Auditor, the Legislative Budget Office, the Department of Finance and Administration, and a copy kept on file in the office of the Transportation Commission. The audit should be so segregated that it shall show in detail the expenditures of the Transportation Department for the period involved.

SOURCES: Laws, 1981, ch. 464, § 22 sub 5; Laws, 1984, ch. 488, § 267; Laws, 1985, ch. 424, § 1; Laws, 1990, ch. 488, § 1; Laws, 1999, ch. 418, § 2, eff from and after passage (approved Mar. 18, 1999.)

Editor's Note — Laws of 1981, ch. 464, § 23, provides as follows:

"SECTION 23. Passage of Section 22 of this act shall not affect any project of the corridor system presently under construction, or any project on the corridor system on which contracts have been let for construction. However, nothing in this section shall prevent the Highway Commission from adopting the most efficient and economical design possible."

Cross References — Joint legislative budget committee and legislative budget office, generally, see §§ 27-103-101 et seq.

Annual report of recommendations for deletion of roads from the state highway system, see § 65-1-59.

§ 65-1-151. Additional bonds required of commissioners and director.

Bond shall be given to the state of Mississippi by each commissioner and the director, each in an additional sum of Fifty Thousand Dollars ($50,000.00), which is in addition to the bonds required in Sections 65-1-3 and 65-1-9, Mississippi Code of 1972; and said bond shall in all instances be and is for the same purposes and in the same manner as provided in Sections 65-1-3 and 65-1-9. Such bonds may be consolidated with bonds required in the aforementioned sections.

SOURCES: Laws, 1981, ch. 464, § 22 sub 6, eff from and after July 1, 1981.

§ 65-1-153. Submission of work program required prior to appropriations; notification of changes in program.

(1) From and after July 1, 1981, no appropriation shall be made to the Mississippi State Highway Department until the highway department sup-

plies the legislature with a detailed program of the work to be accomplished during the fiscal year for which such appropriation will be made.

(2) Whenever a determination is made that one or more of the projects in the program detailed in subsection (1) cannot proceed as approved, the highway department shall furnish, in prescribed written form, the reasons for any proposed deviation, cancellation or rescheduling of such project, together with its recommendation for a substitute project, to the Lieutenant Governor, the chairman of the senate appropriations committee, the chairman of the senate highways committee and the chairman of the senate finance committee, and to the speaker of the house, the chairman of the house appropriations committee, the chairman of the house ways and means committee and the chairman of the house highways and highway financing committee, and to the individual senators and representatives in whose district the requested changes along with the proposed substitution is located.

SOURCES: Laws, 1981, ch. 464, § 24, eff from and after July 1, 1981.

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation.

§ 65-1-155. Transfer of funds to Bureau of Building, Grounds and Real Property Management.

The State Highway Commission, acting through the Director of the State Highway Department, is hereby authorized and directed to transfer the sum of Ten Million Dollars ($10,000,000.00) out of any money in the special fund accounts within the State Treasury to the credit of the State Highway Department into a special fund account to the credit of the Bureau of Building, Grounds and Real Property Management within the State Treasury.

SOURCES: Laws, 1986, ch. 303, § 1, eff from and after July 1, 1986 (Governor's veto overridden by Legislature on February 13, 1986).

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation, and whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

Cross References — Bureau of Building, Grounds and Real Property Management generally, see § 7-1-451 and §§ 31-11-1 et seq.

§ 65-1-157. Expenditure of transferred funds by Bureau of Building, Grounds and Real Property Management.

The funds transferred herein to a special fund account to the credit of the Bureau of Building, Grounds and Real Property Management shall be expended only as authorized by an act of the Legislature.

SOURCES: Laws, 1986, ch. 303, § 2, eff from and after July 1, 1986 (Governor's veto overridden by Legislature on February 13, 1986).

Cross References — Bureau of Building, Grounds and Real Property Management generally, see § 7-1-451 and §§ 31-11-1 et seq.

§ 65-1-159. Implementation of fund transferral by director.

The Director of the State Highway Department shall make requisition upon the State Auditor of Public Accounts, or its successor, and thereupon the Auditor of Public Accounts, or its successor, shall issue his warrant to the State Treasurer, who shall immediately pay same into the special fund account to the credit of the Bureau of Building, Grounds and Real Property Management created pursuant to Section 65-1-155.

SOURCES: Laws, 1986, ch. 303, § 3, eff from and after July 1, 1986 (Governor's veto overridden by Legislature on February 13, 1986).

Editor's Note — Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor, " and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer.

Section 27-104-6 provides that whenever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration".

Section 65-1-1 provides that whenever the term 'director,' meaning the Chief Administrative Officer of the State Highway Department, appears in the laws of the State of Mississippi, it shall mean the Executive Director of the Mississippi Department of Transportation.

Cross References — Bureau of Building, Grounds and Real Property Management generally, see § 7-1-451 and §§ 31-11-1 et seq.

§ 65-1-161. Authorization for Office of General Services to convey right-of-way across certain lands.

The Governor's Office of General Services, acting through the Bureau of Building, Grounds and Real Property Management, is authorized, in its discretion, to convey to the Mississippi State Highway Department, on behalf of the Mississippi School for the Deaf, the Mississippi School for the Blind and the Mississippi Agriculture and Forestry Museum, a right-of-way row easement across real property described as follows:

PARCEL NO. 1

Begin at the point of intersection of the present Easterly right-of-way line of Interstate Highway No. 55 North with the present Northerly right-of-way line of Eastover Drive, said point of beginning is 2,077.4 feet North and 362.1 feet East of the Southwest corner of the Northwest ¼ of the Northwest ¼ of Section 25, Township 6 North, Range 1 East; from said point of beginning run thence Northerly along said present Easterly right-of-way line the following:

North 28 degrees 57' East, a distance of 842.4 feet; thence run South 61 degrees 09' East, a distance of 15.0 feet; thence run North 28 degrees 35' East, a distance of 439.5 feet; thence run Northeasterly along the circumference of a circle to the right having a radius of 676.78 feet, a distance of 183.9 feet to the Northerly line of grantors property; thence run North 88 degrees 46' East along said Northerly property line, a distance of 84.4 feet to a point on a line that is parallel with and 26 feet Easterly of the centerline of survey of the relocation of the East Frontage Road as shown on the plans for Federal Aid Project No. 51-0055-02-085-10; thence run Southerly along said parallel line along the circumference of a circle to the left having a radius of 5,703.58 feet, a distance of 119.3 feet; thence run South 32 degrees 01' West, a distance of 49.9 feet; thence run Southerly along a line that is parallel with and 30 feet Easterly of the centerline of survey of said relocation and along the circumference of a circle to the left having a radius of 5,699.58 feet, a distance of 149.2 feet to a point that is 30 feet Easterly of and measured radially to the centerline of survey of said relocation at Station 9278 + 00; thence run South 55 degrees 08' East, a distance of 50.0 feet; thence run Southerly along a line that is parallel with and 80 feet Easterly of the centerline of survey of said relocation and along the circumference of a circle to the left having a radius of 5,649.58 feet, a distance of 64.1 feet to a point that is 80 feet Easterly of and measured radially to the centerline of survey of said relocation at Station 9277 + 35; thence run South 74 degrees 58' West, a distance of 45.8 feet; thence run South 50 degrees 26' West, a distance of 51.8 feet; thence run South 38 degrees 52' West, a distance of 50.0 feet to a point on that is 30 feet Easterly of and measured radially to the centerline of survey of said relocation at Station 9276 + 00; thence run Southerly along a line that is parallel with and 30 feet Easterly of the centerline of survey of said relocation and along the circumference of a circle to the left having a radius of 5,699.58 feet, a distance of 135.9 feet; thence continue Southerly along the last mentioned parallel line and along the circumference of a circle to the left having a radius of 14,293.95 feet, a distance of 212.9 feet to a point that is 30 feet Easterly of and measured radially to the centerline of survey at said relocation at Station 9272 + 50; thence run South 16 degrees 22' West, a distance of 102.8 feet; thence run Southerly along a line that is parallel with and 55 feet Easterly of the centerline of survey of said relocation and along the circumference of a circle to the left having a radius of 14,268.95 feet, a distance of 249.0 feet to a point that is 55 feet Easterly of and measured radially to the centerline of survey of said relocation at Station 9269 + 00; thence run South 24 degrees 28' West, a distance of 61.6 feet to a point that is 60 feet Easterly of and perpendicular to the centerline of survey of said relocation at Station 9268 + 38.364; thence run South 29 degrees 00' West, along a line that is parallel with and 60 feet Easterly of the centerline of survey of said relocation, a distance of 188.4 feet to a point that is 60 feet Easterly of and perpendicular to the centerline of survey of said relocation at Station 9266 + 50; thence run South 25 degrees 35' West, a distance of 43.7 feet to a point on the present Northerly right-of-way line of said Eastover Drive; thence run North 61 degrees 15' West along said present Northerly right-of-way line, a distance of 68.3 feet to the point of beginning, containing 91,284.03 square feet or 2.096 acres, more or less, and all being situated in and a part of the West ½ of the Southwest ¼ of Section 24, Township 6 North, Range 1 East, City of Jackson, First Judicial District of Hinds County, Mississippi and

PARCEL NO. 2

Begin at a point that is 60 feet Easterly of and perpendicular to the centerline of survey of the relocation of the East Frontage Road as shown on the plans for Federal Aid Project No. 51-0055-02-085-10 at Highway Survey Station 9266 + 50, said point of beginning is 2,084.0 feet North of and 440.8 feet East of the Southwest corner of the Northwest ¼ of the Northwest ¼ of Section 25, Township 6 North, Range 1 East; from said point of beginning run thence South 02 degrees 26' West, a distance of 11.2 feet to a point that is 65 feet Easterly of and perpendicular to the centerline of survey of said relocation at Station 9266 + 40; thence run South 56 degrees 22' East, a distance of 38.7 feet to a point that is 70 feet Northerly of and perpendicular to the centerline of survey of the relocation of Eastover Drive as shown on the plans of said highway project at Station 12 + 45; thence run North 42 degrees 23' East, a distance of 41.2 feet; thence run South 61 degrees 39' East, a distance of 30.0 feet; thence run South 12 degrees 24' West, a distance of 36.4 feet to a point that is 75 feet Northerly of and perpendicular to the centerline of relocation of said Eastover Drive at Station 12 + 95; thence run South 56 degrees 27' East, a distance of 55.2 feet; thence run South 61 degrees 39' East along a line that is parallel with and 70 feet Northerly of the centerline of survey of the relocation of said Eastover Drive, a distance of 120.0 feet; thence run South 81 degrees 18' East, a distance of 74.3 feet; thence run South 61 degrees 39' East, a distance of 21.9 feet; thence run South 42 degrees 09' East, a distance of 30.1 feet; thence run South 03 degrees 43' East, a distance of 56.5 feet to a point on the present Northerly right-of-way line of said Eastover Drive that is 37.33 feet Northerly of and measured radially to the centerline of relocation of said Eastover Drive at Station 16 + 20; thence run North 61 degrees 15' West along said present Northerly right-of-way line, a distance of 416.6 feet; thence run North 25 degrees 35' East, a distance of 43.7 feet to the point of beginning, containing 16,721.53 square feet or 0.384 acres, more or less, and all being situated in and a part of the Southwest ¼ of the Southwest ¼ of Section 24, Township 6 North, Range 1 East, City of Jackson, First Judicial District of Hinds County, Mississippi. No access will be permitted across the retaining wall between Point "C" and Point "D" as shown on the right-of-way plans for the above mentioned Federal Aid Highway Project.

PARCEL NO. 3

Begin at the point of intersection of the present Easterly right-of-way line of Interstate Highway No. 55 North with the present Southerly right-of-way line of Eastover Drive, said point of beginning is 2009.9 feet North of and 318.9 feet East of the Southwest corner of the Northwest ¼ of the Northwest ¼ of Section 25, Township 6 North, Range 1 East; from said point of beginning run thence South 61 degrees 15' East along said present Southerly right-of-way line of Eastover Drive, a distance of 75.7 feet; thence run South 29 degrees 00' West, a distance of 26.4 feet to a point that is 65 feet Easterly of and measured radially to the centerline of survey of the relocation of the East Frontage Road as shown on the plans for Federal Aid Project No. 51-0055-02-085-10 at Station 9265 + 00; thence run South 31 degrees 57' West, a distance of 336.1 feet to a point that is 55 feet Easterly of and perpendicular to the centerline of relocation of said East Frontage Road at Station 9261 + 66.667; thence run South 33 degrees 57' West, a distance of 116.8 feet; thence run South 38 degrees 39' West, a distance of 160.9 feet; thence run South 37 degrees 02' West, a distance of 40.4 feet to a point that is 26 feet Easterly of and measured radially to the centerline of survey of said East Frontage Road relocation at Station 9258 + 50; thence run Southerly along a line that is parallel with and 26 feet Easterly of said centerline of said East Frontage Road relocation and along the circumference of a circle to the left having a radius of 7613.44 feet, a distance of 80.9 feet to a Southerly line of grantors' property; thence run North 61 degrees 51' West along said Southerly property line, a distance of 10.3 feet to a point on the present Easterly right-of-way line of Interstate Highway No. 55 North; thence run North 27 degrees 56' East along said present Easterly right-of-way line, a distance of 120.6 feet; thence run North 28 degrees 57' East along said present Easterly right-of-way line, a distance of 637.0 feet to the point of beginning, containing 37,759.63 square feet or 0.867 acres, more or less, and all being situated in and a part of the Southeast ¼ of the Southeast ¼ of Section 23, and the Southwest ¼ of the Southwest ¼ of Section 24, all in Township 6 North, Range 1 East, City of Jackson, First Judicial District of Hinds County, Mississippi, and

PARCEL NO. 4

Begin at a point that is 65 feet Easterly of and measured radially to the centerline of survey of the relocation of the East Frontage Road as shown on the plans for Federal Aid Project No. 51-005-02-085-10 at Station 9265 + 00, said point of beginning is 1950.4 feet North of and 372.5 feet East of the Southwest corner of the Northwest ¼ of the Northwest ¼ of Section 25, Township 6 North, Range 1 East; from said point of beginning run thence North 29 degrees 00' East, a distance of 26.4 feet to a point on the present Southerly right-of-way line of Eastover Drive; thence run South 61 degrees 15' East along said present Southerly right-of-way line of Eastover Drive, a distance of 409.6 feet to a point that is 42.68 feet Southerly of and measured radially to Station 16 + 15 on the centerline of the relocation of said Eastover Drive as shown on the plans for said project; thence run South 62 degrees 15' West, a distance of 44.8 feet; thence run North 89 degrees 56' West, a distance of 31.5 feet to a point that is 95 feet Southerly of and perpendicular to the centerline of said relocation of Eastover Drive at Station 15 + 61.925; thence run North 58 degrees 32' West, a distance of 92.1 feet; thence run South 42 degrees 23' West, a distance of 61.8 feet; thence run North 61 degrees 39' West, a distance of 30.0 feet; thence run North 28 degrees 21' East, a distance of 95.0 feet to a point that is 55 feet Southerly of and perpendicular to the centerline of said relocation of Eastover Drive at Station 14 + 25; thence run North 61 degrees 39' West, a distance of 75.0 feet; thence run North 67 degrees 22' West, a distance of 100.5 feet; thence run North 63 degrees 27' West, a distance of 45.2 feet to the point of beginning, containing 14,868.52 square feet or 0.341 acres, more or less, and all being situated in and a part of the Southwest ¼ of the Southwest ¼ of Section 24, Township 6 North, Range 1 East, City of Jackson, First Judicial District of Hinds County, Mississippi. No access will be permitted across the retaining wall between Point "A" and Point "B" as shown on the right-of-way plans for the above mentioned Federal Aid Highway Project.

PARCEL NO. 5

Begin at the point of intersection of the North line of grantors' property with the present Easterly right-of-way line of Interstate Highway No. 55, said point is 0.4 feet North of and 745.9 feet West of the Northeast corner of the Southeast ¼ of the Northeast ¼ of Section 26, Township 6 North, Range 1 East; from said point of beginning run thence East along the North line of grantors' property, a distance of 22.32 feet to a line that is 26 feet Easterly of and parallel with the centerline of the relocation of the East Frontage Road as shown on the plans for Federal Aid Project No. 51-0055-02-085-10; thence run Southeasterly along said parallel line and along the circumference of a circle to the left having a radius of 1611.02 feet, a distance 53.76 feet to the present Easterly right-of-way line of said Interstate Highway No. 55, thence run North 12 degrees 30' West along said present Easterly right-of-way line, a distance of 47.16 feet; thence run North 05 degrees 53' East along said present Easterly right-of-way line, a distance of 6.22 feet to the point of beginning, containing 621.05 square feet or 0.014 acres, more or less, and being situated in and a part of the Southeast ¼ of the Northeast ¼ of Section 26, Township 6 North, Range 1 East, City of Jackson, First Judicial District of Hinds County, Mississippi.

SOURCES: Laws, 1988, ch. 392, § 1, eff from and after passage (approved April 19, 1988).

Editor's Note — Section 7-1-451 provides that wherever the term "Office of General Services" appears in any law the same shall mean the Department of Finance and Administration.

Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation.

Cross References — Advertising restrictions and limits on building heights on property adjacent to the Natchez Trace Parkway, see § 55-13-33 et seq.

§ 65-1-163. Disposition of proceeds of sale authorized by Section 65-1-161.

When the property described in Section 65-1-161 is conveyed to the Mississippi Highway Department as authorized, the proceeds from this conveyance of parcels 1, 2, 3 and 4, shall be deposited to the credit of the Mississippi School for the Deaf and the Mississippi School for the Blind, in a special account created in the State Treasury for the use of the Governor's Office of General Services, Bureau of Building, Grounds and Real Property Management for the renovation of capital improvements of buildings and grounds on school property. The proceeds from the conveyance of the property in parcel 5 shall be deposited to the credit of Special Fund Account of the Mississippi Department of Agriculture and Commerce for the use and benefit of the Mississippi Agriculture and Forestry Museum. Monies in the special funds shall be expended only upon appropriation by the Legislature and upon requisitions signed by the proper person, officer or officers. Any monies appropriated from the special funds shall be in addition to other legislative appropriations which shall not be reduced because of the existence of the special fund.

SOURCES: Laws, 1988, ch. 392, § 2, eff from and after passage (approved April 19, 1988).

Editor's Note — Section 7-1-451 provides that wherever the term "Office of General Services" appears in any law the same shall mean the Department of Finance and Administration.

Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation.

§ 65-1-165. Contract for development of comprehensive statewide litter prevention program.

The State Highway Department is hereby authorized to execute a contract with Keep Mississippi Beautiful, Inc., to develop and implement a comprehensive statewide program of litter prevention. The contract shall contain provisions to require that Keep Mississippi Beautiful, Inc., will:

(a) Encourage and assist local communities to become certified Keep America Beautiful systems.

(b) Serve as a state clearinghouse of information on ideas and projects to make local litter prevention programs more effective.

(c) Implement statewide communication programs to alert people to the problem of littering and how it can be corrected.

(d) Coordinate an annual statewide project which will heighten public awareness of the problem of littering.

(e) Establish an annual awards program to recognize individual and community achievement in litter prevention.

(f) Serve as the authority which approves and disburses financial assistance to any nonprofit corporation, county or municipality which, in a written application, seeks such assistance to implement a local litter prevention project. The financial assistance authorized herein shall not exceed forty percent (40%) of the cost of the local litter prevention project for which such assistance is sought.

(g) Encourage donation of funds from the private sector to assist in defraying the operation of the litter prevention program implemented pursuant to this section.

The contract may include any additional provisions which the highway department deems necessary to effectuate the litter prevention program contemplated by this section.

Keep Mississippi Beautiful, Inc., shall submit to the highway department on or before August 1 of each year a written report detailing the operation of the litter prevention program statewide and its expenditure of monies for such program during the preceding state fiscal year.

SOURCES: Laws, 1988, ch. 574, § 1, eff from and after July 1, 1988.

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation.

Cross References — Authorization to expend funds from the Statewide Litter Prevention Fund to implement the statewide litter prevention program established under this section, see § 65-1-167.

Direction that the proceeds of fines imposed for littering highways and private property be expended solely for the purpose of implementing local litter prevention programs and to match monies available pursuant to this section, see § 97-15-29.

ATTORNEY GENERAL OPINIONS

The Mississippi State University Extension Service, being an extension of a university and therefore a state agency, does not qualify as a nonprofit corporation under this provision; however, Keep Mississippi Beautiful, Inc. can disburse financial assistance directly to 4-H Clubs under the statute. Hall, December 1, 1998, A.G. Op. #98-0605.

Assuming its articles of incorporation as well as the actual contract with the Highway Department allow such, Keep Mississippi Beautiful, Inc. can contract with persons and entities, including authorized state agencies, to implement statewide communication programs to alert people to the problem of littering and how it can be corrected. Hall, December 1, 1998, A.G. Op. #98-0605.

§ 65-1-167. Statewide litter prevention fund.

There is hereby created in the State Treasury a special fund to be known as the Statewide Litter Prevention Fund. Monies may be expended out of such fund, pursuant to appropriation by the Legislature, to implement the statewide litter prevention program established under the provisions of Section 65-1-165. Disbursements from such fund shall be made only upon requisition of the Director of the State Highway Department with the approval of the State Highway Commission.

SOURCES: Laws, 1988, ch. 524, § 2, eff from and after July 1, 1988.

Editor's Note — Section 65-1-1 provides that whenever the term 'director,' meaning the Chief Administrative Officer of the State Highway Department, appears in the laws of the State of Mississippi, it shall mean the Executive Director of the Mississippi Department of Transportation.

Cross References — Imposition of an assessment upon each person convicted for littering highways or private property and the deposit of such assessment to the credit of the fund created by this section, see § 97-15-29.

§ 65-1-169. Removal or termination of obstructions, encroachments and unauthorized uses of property acquired for highway purposes.

The State Highway Commission is hereby authorized to maintain property acquired for highway purposes free and clear of any obstruction, encroachment or any other use not authorized by the commission. Before removing or terminating any obstruction, encroachment or other unauthorized use, the State Highway Commission shall give notice by registered mail to the offending party of its intention to remove or terminate such obstruction, encroachment or other unauthorized use unless, within forty-five (45) days from the date such notice is mailed, the offending party institutes a civil action in any court of competent jurisdiction with respect to the removal or termination proposed by the Highway Commission. When the State Highway Commission has removed or terminated any obstruction, encroachment or other unauthorized use after the mailing of notice as required above and upon the failure of the offending party to institute an action within the forty-five-day time period, the Highway Commission may institute a civil action in any court of competent jurisdiction against the offending party for all costs incurred in the removal or termination thereof.

The State Highway Commission, the State Highway Department and State Highway Department personnel shall not be liable, civilly or criminally, for any property damages or personal injuries incurred by any person for the removal or termination of such obstruction, encroachment or unauthorized use in accordance with the provisions of this section provided that reasonable care is exercised in the termination or removal of the obstruction, encroachment or unauthorized use. The provisions of this section shall not be construed as a waiver, in whole or in part, of the sovereign immunity of the state, the State Highway Commission or the State Highway Department.

The provisions of this section shall apply only to the removal or termination of obstructions, encroachments or other unauthorized uses of property acquired for highway purposes which first occur or are created on or after July 1, 1988. The provisions of this section shall not apply to or affect any right or remedy which the State Highway Commission was authorized by law prior to July 1, 1988, to exercise in the removal or termination of any such obstructions, encroachments or other unauthorized uses occurring or created before July 1, 1988.

SOURCES: Laws, 1988, ch. 559, eff from and after July 1, 1988.

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation, and whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 65-1-171. Construction of bridge across Pearl River at City of Jackson connecting counties of Rankin and Hinds.

Pursuant to federal appropriations for transportation system improvements, the Mississippi Department of Transportation is hereby authorized and empowered to construct a road and bridge along the following route: Begin at or near North State Street in the City of Jackson's central business district and extend in an easterly direction across the Pearl River to Mississippi 475 at or near the entrance to the Jackson International Airport, for a total distance of approximately 4.6 miles. Final roadway alignment will be determined by a feasibility study.

To defray the cost of the project, the department shall utilize only monies made available to it from the boards of supervisors and the governing authorities of the counties and municipalities within which such project is located; however, the department may utilize state funds to match any federal funds which are specially provided for preliminary engineering, right-of-way acquisition and construction for the connections between I-55 and Mississippi 475 at or near the entrance to the Jackson International Airport, in addition to those federal funds with obligational authority as are regularly apportioned and appropriated to the State of Mississippi for highway purposes. Accessory improvements shall be made to local streets to accommodate traffic generated by the project. All improvements shall conform to congressional appropriations enacted for planning and construction of the project.

SOURCES: Laws, 1990, ch. 474, § 1; Laws, 1991, ch. 587, § 1; Laws, 1992, ch. 564 § 1; Laws, 1994, ch. 557, § 41, eff from and after July 1, 1994.

§ 65-1-173. Employment of inspectors to enforce and investigate violations of railroad laws and related mandates.

For the purpose of enforcing and investigating all violations of the railroad laws, and the rules, regulations and general orders of the Mississippi Transportation Commission promulgated thereunder, the commission is hereby authorized to employ five (5) inspectors and one (1) railway safety coordinator. The salaries of the inspectors and the safety coordinator shall be fixed by the commission, subject to the state personnel system law as provided under Section 25-9-101 et seq. The inspectors shall devote their full time to the performance of their duties and shall take an oath faithfully to perform the duties of their positions. The commission shall require bonds to be carried on such employees as the commission may deem necessary, the cost thereof to be paid by the commission.

The inspectors shall be selected after an examination, as prescribed by the commission, as to physical and mental fitness, knowledge of the railroad laws, the rules and regulations of the commission, the laws of this state pertaining to arrest and any other examination as may be prescribed by the commission. An inspector, at the time of appointment, shall be a citizen of the State of Mississippi, of good moral character, and shall not be less than twenty-one (21) years of age.

The inspectors of the Mississippi Transportation Commission may enter upon private property upon which a railroad facility is located that is connected to but not a part of the general railroad system of transportation, at reasonable times and in a reasonable manner to perform an inspection, investigation or surveillance of facilities, equipment, records and operations relating to the packaging, loading or transportation of hazardous materials or other materials to determine whether the railroad facility complies with the applicable federal or state safety statutes, rules, regulations or orders. Any inspection, investigation or surveillance performed on the site of a manufacturing facility shall be performed in compliance with the safety rules or regulations of the facility.

SOURCES: Laws, 1992, ch. 496, § 58; Laws, 1997, ch. 500, § 2; Laws, 1998, ch. 550, § 2, eff from and after passage (approved April 13, 1998).

Editor's Note — Similar provisions were formerly contained in repealed § 77-1-23.

Cross References — Establishment of Mississippi Department of Transportation and transfer of functions from other offices thereto, see § 65-1-2.

Mississippi Transportation Commission, see § 65-1-3.

§ 65-1-175. Jurisdiction and powers of Department of Transportation with respect to roadway/railway crossings.

(1) The jurisdiction of the Mississippi Department of Transportation shall be exclusive with respect to public roadway/railroad crossings either at grade or otherwise except to the extent that its jurisdiction is preempted by valid federal statute, regulation or order.

(2) The Mississippi Department of Transportation shall have power, upon its own motion or upon complaint filed, after having made proper investigation, and after notice and hearing, if requested, to abolish any public roadway/railroad crossing heretofore or hereafter established, to vacate and close that part of the roadway on such crossing abolished, and to erect barricades across the roadway in such a manner as to prevent the use of such crossing as a roadway, when, in the opinion of the department, the public necessity served by the crossing in question is not such as to justify the further retention thereof. In any event, if a roadway/railway crossing is the subject of closure proceedings, both the local governmental entity and the rail carrier shall be

given formal written notice by the department before any hearing is conducted by the department. However, a public hearing by the department to abolish a crossing shall not be required when the public roadway authority in interest vacates the roadway. In such instances, the rail carrier, following notification to the department and roadway authority, shall remove any grade crossing warning devices and the grade crossing surface.

(3) The Mississippi Department of Transportation shall have power, upon its own motion, or upon complaint, and after having made proper investigation and after notice and hearing, if requested, to require the installation of adequate and appropriate luminous reflective warning signs, luminous flashing signals, crossing gates illuminated at night, or other warning devices in order to promote the health and safety of the public. Luminous flashing signals or crossing gate devices heretofore installed at grade crossings and those installations hereafter approved by the department shall be deemed adequate and appropriate. The department shall have authority to determine the number, type and location of such signs, signals, gates or other protective devices which shall conform as near as may be with generally recognized national standards, and the department shall have authority to prescribe the division of the cost of the installation and subsequent maintenance of such signs, signals, gates or other warning devices between the rail carrier or carriers, the public highway authority in interest and the Mississippi Department of Transportation. In no event shall any costs assessed against either the public highway authority in interest or the rail carrier exceed ten percent (10%) of the costs of the materials and installation.

(4) Nothing in this section shall be construed as amending, repealing or modifying any duty or responsibility that railroads had, if any, immediately before July 1, 1992, with regard to any applicable state or federal laws, statutes, regulations or orders pertaining to the maintenance of signals, signs and warning devices at roadway/railroad crossings.

SOURCES: Laws, 1992, ch. 496, § 60; Laws, 2007, ch. 572, § 2, eff from and after July 1, 2007.

Amendment Notes — The 2007 amendment designated the formerly undesignated paragraphs as (1) through (4); in (2), substituted "public necessity" for "public convenience" and added the last two sentences.

Cross References — Requirement that railroads erect "railroad crossbuck" at grade crossings, see § 77-9-247.

ATTORNEY GENERAL OPINIONS

Counties are responsible for the installation and maintenance of necessary warning signs and pavement markings at rail crossings on roads under their jurisdiction subject to approval by the State Highway Commission. Fortier, Mar. 29, 2002, A.G. Op. #02-0109.

A local jurisdiction, in the exercise of its sound discretion, is responsible for paying for the materials and the installation of pavement markings and advance warning signs at public railroad crossing intersections on roads under local jurisdiction; both the materials and the installation of same are subject to approval by the Department of Transportation. Brown, Apr. 4, 2003, A.G. Op. #02-0769.

If the public roadway/railroad crossing involves roads which are under different jurisdictions, the funding responsibilities should be allocated proportionately among the respective jurisdictions. Brown, Apr. 4, 2003, A.G. Op. #02-0769.

JUDICIAL DECISIONS

1. Actions against cities.

Finding against the driver in her action against the city for injuries resulting from a collision with a train at a railroad crossing was appropriate because Mississippi law formed a consistent pattern with other authority that it was the railroad that maintained the crossing at issue and not the city. Bowman v. CSX Transp., Inc., 931 So. 2d 644 (Miss. Ct. App. 2006).

RESEARCH REFERENCES

ALR. Customary or statutory signal from train as measure of railroad's duty as to warning at highway crossing. 5 A.L.R.2d 112.

Railroad company's liability for injury or death of pedestrian due to condition of surface of crossing. 64 A.L.R.2d 1199.

Application of last clear chance doctrine to cases involving collision between train and motor vehicle at railroad crossing. 70 A.L.R.2d 9.

Railroad's liability for crossing collision as affected by fact that train or engine was backing or engine was pushing train. 85 A.L.R.2d 267.

Failure of signaling device at crossing to operate, as affecting railroad company's liability. 90 A.L.R.2d 350.

Governmental liability for failure to reduce vegetation obscuring view at railroad crossing or at street or highway intersection. 22 A.L.R.4th 624.

Liability of railroad or other private landowner for vegetation obscuring view at railroad crossing. 66 A.L.R.4th 885.

Am Jur. 13A Am. Jur. Pl & Pr Forms (Rev), Highways, Streets, and Bridges, Forms 11, 12 (notice and claim for injuries, against municipality and railroad, alleging defective railroad crossing).

21 Am. Jur. Pl & Pr Forms (Rev), Railroads, Forms 21-37, 61-63, 311-339, 352, 353, 358-372.

23 Am. Jur. Trials 1, Railroad crossing accident litigation.

§ 65-1-177. Department of Transportation, in consultation with Southern High-Speed Rail Commission and the Mississippi Development Authority, to promote passenger rail service and make recommendations regarding passenger rail infrastructure.

Working in consultation with the Southern High-Speed Rail Commission created in Section 57-45-1 and the Mississippi Development Authority, the Mississippi Department of Transportation shall promote passenger rail travel and service in the state and make recommendations for specific projects related to the construction, rehabilitation, maintenance, and improvement of the state's passenger rail infrastructure, which shall include, but are not limited to, the following aspects:

(a) Insuring compatibility for a project or projects with opportunities for the state to obtain federal funding assistance that may be available for high-speed passenger rail service, which includes, but is not limited to, intercity passenger rail service that is capable of reaching speeds of one hundred ten (110) miles per hour; and

(b) Considering projects that create a series of corridor route rail segments with passenger service areas that are smaller than long-distance passenger trains and seek to connect major city pairs, in order to provide improved service at peak travel times and a higher frequency of trains.

SOURCES: Laws, 2009, ch. 497, § 3, eff from and after July 1, 2009.

Article 3.

Eminent Domain and Condemnation Proceedings.

Sec.
65-1-301. Definitions.
65-1-303. Filing of complaint and declaration of taking.
65-1-305. Transfer of title.
65-1-307. Application for full or just compensation.
65-1-309. Procedure for filing an answer to complaint.
65-1-311. Time for filing an answer to complaint.
65-1-313. Motion to hear and determine issues raised in pleadings.
65-1-315. Appointment of attorney or guardian ad litem.
65-1-317. Takings by department without filing complaint or declaration.
65-1-319. Measure of damages.
65-1-321. Interest on just compensation award.
65-1-323. Time and place of hearing.
65-1-325. Separate causes of action; jury; judgment.
65-1-327. Conformance to other civil actions.
65-1-329. Final judgments; form.
65-1-331. Just compensation; adverse or conflicting claimants.
65-1-333. Written agreement in lieu of complaint or declaration of taking.
65-1-335. Authority of department to enter land to make surveys or other examinations.
65-1-337. Reimbursement of real property taxes.
65-1-339. Transportation Department entitled to recover amount of deposit exceeding that of final judgment.
65-1-341. Payment of court costs; right of appeal.
65-1-343. Prepayment of court costs.
65-1-345. Relationship to other laws.
65-1-347. Due process.

§ 65-1-301. Definitions.

For the purposes of this article the following terms shall have the meanings ascribed to them unless the context in which such terms are used otherwise requires:

(a) "Department" means the Mississippi Department of Transportation.

(b) "Judge" means the resident judge of the circuit or county court in the district where the cause is pending, or a special judge residing in the district, or the judge of the circuit or county court assigned to hold the courts of the district, or the emergency or special judge holding court in the county where the cause is pending.

SOURCES: Laws, 1997, ch. 439, § 1, eff from and after July 1, 1997.

Cross References — Eminent domain proceedings, generally, see §§ 11-27-1 et seq.
Creation of Mississippi Department of Transportation, see §§ 65-1-2, 65-1-3.
Eminent domain power of Mississippi Transportation Commission, see § 65-1-47.

JUDICIAL DECISIONS

1. Constitutionality.

Since the State Constitution, at Article 3, Section 17, mandates that a determination of public use be made whenever private property is taken, and the condemnor has the burden of proof on the issue of public use, this article, strictly construed, is unconstitutional for not providing a predeprivation opportunity for the landowner to challenge the taking and to make the condemnor satisfy its burden on the issue of public use. Lemon v. State Transp. Comm'n, 735 So. 2d 1013 (Miss. 1999).

Regardless of the adequacy of this section's post-deprivation remedies, this section must provide a predeprivation hearing before taking property; because it does not provide for such a pre-deprivation hearing, this article is unconstitutional as violative of procedural due process. Lemon v. State Transp. Comm'n, 735 So. 2d 1013 (Miss. 1999).

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

§ 65-1-303. Filing of complaint and declaration of taking.

(1) When, in the exercise of its duties, the Mississippi Transportation Commission finds it necessary to condemn property, the commission shall institute a civil action by filing in the circuit or county court of any county in which the land is located a complaint and a declaration of taking that such land, easement or interest therein is thereby taken for the use of the Department of Transportation.

(2) The declaration shall contain or have attached thereto the following:

(a) A statement of the authority under which and the use for which the land is taken;

(b) A description of the entire tract or tracts affected by the taking sufficient for the identification thereof;

(c) A statement of the estate or interest in the land taken for public use and a description of area taken for the identification thereof;

(d) The names and addresses of those persons who the Transportation Department is informed and believes may have or claim to have an interest in the lands, so far as the same can be by reasonable diligence ascertained; and, if any such persons are infant, non compos mentis, under any other disability, or their whereabouts or names unknown, it must be so stated; and

(e) A statement of the sum of money which constitutes the fair market value as determined by the Transportation Department to be just compensation for the taking.

(3) The complaint shall contain or have attached thereto the following:

(a) A statement of the authority under which and the public use for which the land is taken;

(b) A description of the entire tract or tracts affected by the taking sufficient for the identification thereof;

(c) A statement of the estate or interest in the land taken for public use and a description of the area taken sufficient for the identification thereof;

(d) The names and addresses of those persons who the Transportation Department is informed and believes may have or claim to have an interest in the lands, so far as the same can be by reasonable diligence be ascertained; and, if any such persons are infants, non compos mentis, under any other disability, or their whereabouts or names unknown, it must be so stated;

(e) A statement as to such liens or other encumbrances as the Transportation Department is informed and believes are encumbrances upon the real estate and can by reasonable diligence be ascertained; and

(f) A prayer that there be a determination of just compensation in accordance with the provisions of this article.

(4) The filing of the complaint and the declaration of taking shall be accompanied by the deposit of the sum of money, the fair market value, determined by the Transportation Department to be just compensation for the taking; and, upon the filing of the complaint and the declaration and deposit of the sum, summons shall be issued and, together with a copy of the complaint and the declaration of taking and notice of the deposit, shall be served upon the person named therein in the manner now provided for the service of process in civil actions. The Transportation Department may amend the complaint and declaration of taking and may increase the amount of its deposit with the court at any time while the proceeding is pending, and the owner shall have the same rights of withdrawal of this additional amount as set forth in Section 65-1-307.

SOURCES: Laws, 1997, ch. 439, § 2, eff from and after July 1, 1997.

Cross References — Eminent domain proceedings, generally, see §§ 11-27-1 et seq.

Eminent domain power of Mississippi Transportation Commission, see § 65-1-47.

Service and filing of pleadings and other papers, see Miss. R. Civ. P. 5.

Applicability of Mississippi Rules of Civil Procedure to eminent domain proceedings, see comment at Miss. R. Civ. P. 71A and R. Civ. P. 81.

JUDICIAL DECISIONS

1. Parties.

Under paragraph (d) of subsection (2), a person who claims an easement by prescription across condemned land should be made a party to a condemnation proceeding. Bishop v. Mississippi Transp. Comm'n, 734 So. 2d 218 (Miss. Ct. App. 1999).

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

§ 65-1-305. Transfer of title.

(1) Upon the filing of the complaint and the declaration of taking and deposit in court, to the use of the person entitled thereto, of the amount of the compensation stated in the declaration, and upon the Transportation Department having filed proof of service of process, title to the land or such other interest therein specified in the complaint and the declaration of taking, together with the right to immediate possession thereof, shall vest in the Mississippi Transportation Commission, and the judge shall enter such orders in the cause as may be required to place the Transportation Commission in possession and title. Thereafter, the land shall be deemed to be condemned and taken for use of the Transportation Department, and the right to just compensation therefor shall vest in the person owning the property or any compensable interest therein at the time of the filing of the complaint and the declaration of taking and deposit of the money in court. Compensation shall then be determined and awarded in the action and established by judgment therein.

(2) If there is a life estate and a remainder, either vested or contingent, in lieu of the investment of the proceeds of the amount determined and awarded as just compensation to which the life tenant would be entitled to the use during the life estate, the court, in its discretion, may order the value of the life tenant's share during the probable life of such life tenant to be ascertained as provided by law and paid directly to the life tenant out of the final award as just compensation established by the judgment in the cause, and the life tenant may have the relief provided for in Section 65-1-307.

(3) On and after July 1, 1997, the Transportation Department, at the time of the filing of the complaint and declaration of taking and deposit of fair market value compensation, shall record a memorandum of action in the land deed records of the chancery clerk in all counties in which the land involved therein is located, and the memorandum shall be recorded among the land records of the county. Upon the amending of any complaint and declaration of taking affecting the property taken, the Transportation Department shall record a supplemental memorandum of action. The memorandum of action shall contain the following:

(a) The names of those persons who the Transportation Department is informed and believes may have or claim to have an interest in the lands and who are parties to the action;

(b) A description of the entire tract or tracts affected by the taking sufficient for the identification thereof;

(c) A statement of the estate or interest in the land taken for public use; and

(d) The date of institution of the action, the county in which the action is pending, and such other reference thereto as may be necessary for the identification of the action.

SOURCES: Laws, 1997, ch. 439, § 3, eff from and after July 1, 1997.

Cross References — Eminent domain proceedings, generally, see §§ 11-27-1 et seq.

Eminent domain power of Mississippi Transportation Commission, see § 65-1-47.

Applicability of Mississippi Rules of Civil Procedure to eminent domain proceedings, see Miss. R. Civ. P. 71A and 81.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

§ 65-1-307. Application for full or just compensation.

(1) The person named in the complaint and declaration of taking may apply to the court for disbursement of the money deposited in the court, or any part thereof, as full compensation, or as a credit against just compensation without prejudice to further proceedings in the cause to determine just compensation. Upon such application, the judge, unless there is a dispute as to title, shall order that the money deposited be paid forthwith to the person entitled thereto in accordance with the application. The judge shall have power to make such orders with respect to encumbrances, liens, rents, taxes, assessments, insurance and other charges, if any, as shall be just and equitable.

(2) No notice to the Transportation Department of the hearing upon the application for disbursement of deposit shall be necessary, but a copy of the order disbursing the deposit shall be served upon the secretary of the Transportation Commission, or such other process agents as may be designated by the Transportation Department.

SOURCES: Laws, 1997, ch. 439, § 4, eff from and after July 1, 1997.

Cross References — Eminent domain proceedings, generally, see §§ 11-27-1 et seq.

Eminent domain power of Mississippi Transportation Commission, see § 65-1-47.

Applicability of Mississippi Rules of Civil Procedure to eminent domain proceedings, see Miss. R. Civ. P. 71A and 81.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

27 Am. Jur. 2d, Eminent Domain § 842.

§ 65-1-309. Procedure for filing an answer to complaint.

(1) Any person whose property has been taken by the Transportation Department by the filing of a complaint and a declaration of taking may, within

the time hereinafter set forth, file an answer to the complaint praying only for a determination of just compensation. No answer shall be filed to the declaration of taking and notice of deposit. The answer, in addition, shall contain the following:

(a) Such admissions or denials of the allegations of the complaint as are appropriate;

(b) The names and addresses of the persons filing the answer, together with a statement as to their interest in the property taken; and

(c) Such affirmative defenses or matters as are pertinent to the action.

(2) A copy of the answer shall be served on the Transportation Department, or such other process agents as may be designated by the department, in Jackson, Mississippi, provided that failure to serve the answer shall not deprive the answer of its validity. The affirmative allegation of the answer shall be deemed denied; however, the Transportation Department may file a reply within thirty (30) days from receipt of a copy of the answer.

(3) The Transportation Department, within ninety (90) days from the receipt of the answer, shall file in the cause a plat of the land taken and such additional area as may be necessary to properly determine the damages, and a copy thereof shall be mailed to the parties or their attorney; however, the department shall not be required to file a map or plat in less than six (6) months from the date of the filing of the complaint.

SOURCES: Laws, 1997, ch. 439, § 5, eff from and after July 1, 1997.

Cross References — Eminent domain proceedings, generally, see §§ 11-27-1 et seq.

Eminent domain power of Mississippi Transportation Commission, see § 65-1-47.

Applicability of Mississippi Rules of Civil Procedure to eminent domain proceedings, see Miss. R. Civ. P. 71A and 81.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

§ 65-1-311. Time for filing an answer to complaint.

Any person named in and served with a complaint and declaration of taking shall have twelve (12) months from the date of service thereof to file an answer. Failure to answer within the time shall constitute an admission that the amount deposited is just compensation and shall be a waiver of any further proceeding to determine just compensation. In such event, the judge shall enter final judgment in the amount deposited and order disbursement of the money to the owner. However, at any time before the entry of the final judgment, the judge, for good cause shown and after notice to the plaintiff, may extend the time for filing the answer for thirty (30) days.

SOURCES: Laws, 1997, ch. 439, § 6, eff from and after July 1, 1997.

Cross References — Eminent domain proceedings, generally, see §§ 11-27-1 et seq.

Eminent domain power of Mississippi Transportation Commission, see § 65-1-47.

Applicability of Mississippi Rules of Civil Procedure to eminent domain proceedings, see Miss. R. Civ. P. 71A and 81.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

§ 65-1-313. Motion to hear and determine issues raised in pleadings.

After the filing of the plat, the judge, upon motion and ten (10) days' notice by either the Transportation Department or the owner shall, either in or out of term, hear and determine all issues raised by the pleading other than the issue of just compensation, including, if controverted, questions of necessary and proper parties, title to the land, interest taken and area taken.

SOURCES: Laws, 1997, ch. 439, § 7, eff from and after July 1, 1997.

Cross References — Eminent domain proceedings, generally, see §§ 11-27-1 et seq.

Eminent domain power of Mississippi Transportation Commission, see § 65-1-47.

Applicability of Mississippi Rules of Civil Procedure to eminent domain proceedings, see Miss. R. Civ. P. 71A and 81.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

§ 65-1-315. Appointment of attorney or guardian ad litem.

(1) The judge may appoint some competent attorney to appear for and protect the rights of any party or parties in interest who are unknown or whose residence is unknown and who have not appeared in the proceeding represented by an attorney or agent. The judge shall appoint guardians ad litem for these parties who are minors, incompetents, or other parties who may be under a disability and without general guardian. The judge may make additional parties as he deems necessary to the complete determination of the proceeding and may enter such other orders, either in law or equity, as may be necessary to carry out the provisions of this article.

(2) Upon the coming on of the cause for hearing pursuant to Section 65-1-311, or upon the coming on of the cause for trial, the judge, in order that the material ends of justice may be served, upon his own motion or upon motion of any of the parties thereto and upon proper showing that the effect of condemnation upon the subject property cannot presently be determined, may continue the cause until the highway project under which the appropriation occurred is open to traffic or until such earlier time as, in the opinion of the judge, the effect of condemnation upon the property may be determined.

SOURCES: Laws, 1997, ch. 439, § 8, eff from and after July 1, 1997.

Cross References — Eminent domain proceedings, generally, see §§ 11-27-1 et seq.

Eminent domain power of Mississippi Transportation Commission, see § 65-1-47.

Applicability of Mississippi Rules of Civil Procedure to eminent domain proceedings, see Miss. R. Civ. P. 71A and 81.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

§ 65-1-317. Takings by department without filing complaint or declaration.

(1) Any person whose land or compensable interest therein has been taken by an intentional or unintentional act or omission of the Transportation Department without the filing of a complaint and declaration of taking by the department may, within twenty-four (24) months of the date of the taking of the affected property or interest therein or the completion of the project involving the taking, whichever occurs later, file a complaint in the circuit or county court setting forth the names and places of residence of the parties, so far as the same can by reasonable diligence be ascertained, who own or have, or claim to own or have estates or interests in the real estate. If any such persons are under a legal disability, it must be so stated, together with a statement as to any encumbrances on the real estate. The complaint shall further allege with particularity the facts which constitute the taking together with the dates on which they allegedly occurred. The complaint shall describe the property allegedly owned by the parties and shall describe the area and interests allegedly taken. Upon the filing of the complaint, summons shall issue and, together with a copy of the complaint, shall be served on the Transportation Department as provided in Section 65-1-309. The allegations of the answer shall be deemed denied; however, the Transportation Department, within sixty (60) days of service of summons and complaint, may file an answer. If the taking is admitted by the Transportation Department, it, at the time of filing answer, shall deposit with the court the fair market value of compensation for the taking; and notice of the deposit shall be given to the owner. The owner may apply for disbursement of the deposit, and disbursement shall be made in accordance with applicable provision of Section 65-1-307. If a taking is admitted, the Transportation Department, within ninety (90) days of the filing of the answer to the complaint, shall file a map or plat of the land taken. This procedure shall be followed for the purpose of determining all matters raised by the pleading and the determination of just compensation.

(2) The plaintiff, at the time of filing of the complaint, shall record a memorandum of action in the land deed records in the office of the chancery clerk in all counties in which the land involved is located. The memorandum of action shall contain the following:

(a) The names of those persons who the plaintiff is informed and believes may have or claim to have an interest in the lands and who are parties to the action;

(b) A description of the entire tract or tracts affected by the alleged taking sufficient for the identification thereof;

(c) A statement of the estate or interest in the land allegedly taken for public use; and

(d) The date on which plaintiff alleges the taking occurred, the date on which the action was instituted, the county in which it was instituted and such other reference thereto as may be necessary for the identification of the action.

SOURCES: Laws, 1997, ch. 439, § 9, eff from and after July 1, 1997.

Cross References — Eminent domain proceedings, generally, see §§ 11-27-1 et seq.

Eminent domain power of Mississippi Transportation Commission, see § 65-1-47.

Applicability of Mississippi Rules of Civil Procedure to eminent domain proceedings, see Miss. R. Civ. P. 71A and 81.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

§ 65-1-319. Measure of damages.

The following shall be the measure of damages to be followed by the jury or judge who determines the issue of just compensation:

(a) If only a part of a tract is taken, the measure of just compensation for the taking shall be the difference between the fair market value of the entire tract immediately before the taking and the fair market value of the remainder immediately after the taking, with consideration being given to any special or general benefits resulting from the utilization of the part taken for transportation purposes.

(b) If the entire tract is taken the measure of just compensation for the taking shall be the fair market value of the property at the time of taking.

SOURCES: Laws, 1997, ch. 439, § 10, eff from and after July 1, 1997.

Cross References — Eminent domain proceedings, generally, see §§ 11-27-1 et seq.

Eminent domain power of Mississippi Transportation Commission, see § 65-1-47.

Applicability of Mississippi Rules of Civil Procedure to eminent domain proceedings, see Miss. R. Civ. P. 71A and 81.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

27 Am. Jur. 2d, Eminent Domain §§ 842.

§ 65-1-321. Interest on just compensation award.

To the amount awarded as just compensation by the jury or judge, the judge, as part of just compensation, shall add interest at the legal rate for judgments on the amount from the date of taking to the date of judgment; but interest shall not be allowed from the date of deposit on so much thereof as shall have been paid into court as provided in this article.

SOURCES: Laws, 1997, ch. 439, § 11, eff from and after July 1, 1997.

Cross References — Eminent domain proceedings, generally, see §§ 11-27-1 et seq.

Eminent domain power of Mississippi Transportation Commission, see § 65-1-47.

Applicability of Mississippi Rules of Civil Procedure to eminent domain proceedings, see Miss. R. Civ. P. 71A and 81.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

§ 65-1-323. Time and place of hearing.

An order of the court shall fix the time and place for the hearing either in term time or vacation, and a certified copy shall be given to the court administrator. If the hearing is set during term time, it shall be given priority over any other matter and shall utilize the regular jury panel that has been summoned. If the hearing is set in vacation, the order of the court shall direct the clerk to summon the necessary jurors to appear at the time and place designated by the order.

SOURCES: Laws, 1997, ch. 439, § 12, eff from and after July 1, 1997.

Cross References — Eminent domain proceedings, generally, see §§ 11-27-1 et seq.

Eminent domain power of Mississippi Transportation Commission, see § 65-1-47.

Applicability of Mississippi Rules of Civil Procedure to eminent domain proceedings, see Miss. R. Civ. P. 71A and 81.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

§ 65-1-325. Separate causes of action; jury; judgment.

(1) Each different property, identified by separate ownership, shall constitute a separate civil action and shall require trial, unless otherwise agreed by all parties with the approval of the court. Trial shall be to a jury of twelve (12), which shall be examined and empaneled in accordance with the Mississippi Rules of Civil Procedure. Alternatively, trial may be to the court as provided by the Mississippi Rules of Civil Procedure.

(2) In the trial of all cases provided for in this article, nine (9) jurors may bring in a verdict as in other civil cases. The verdict of the jury may be in the following form: "We, the jury, find that the defendant(s)________ is/are entitled to just compensation for the acquisition of his/her/their property for the public use in the sum of $________."

(3) Upon the return of the verdict by the jury or court, the court shall enter a judgment as follows, viz: "In this case the claim of (plaintiff name) to have condemned certain lands named in the complaint, to-wit: (here describe the property), being the property of (insert defendants' names) was submitted to a jury (or the court) on the ________ day of ________, A.D. ________, and the jury (or court) having returned a verdict fixing the defendant's just compensation at $________, the verdict was received and entered. Now, upon payment of the award with legal interest from the date of the filing of the complaint, the property is vested in plaintiff by virtue of the judgment entered herein."

SOURCES: Laws, 1997, ch. 439, § 13, eff from and after July 1, 1997.

Cross References — Eminent domain proceedings, generally, see §§ 11-27-1 et seq.

Eminent domain power of Mississippi Transportation Commission, see § 65-1-47.

Applicability of Mississippi Rules of Civil Procedure to eminent domain proceedings, see Miss. R. Civ. P. 71A and 81.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

§ 65-1-327. Conformance to other civil actions.

In all cases of procedure under this article, whenever the mode or manner of conducting the action is not expressly provided for in this article or by the Mississippi Rules of Civil Procedure, or whenever the rules of civil procedure are inapplicable, the judge before whom such proceeding may be pending may make all the necessary orders and rules of procedure necessary to carry into effect the object and intent of this article. The practice in such cases shall conform as nearly as practicable to the practice in other civil actions in the courts.

SOURCES: Laws, 1997, ch. 439, § 14, eff from and after July 1, 1997.

Cross References — Eminent domain proceedings, generally, see §§ 11-27-1 et seq.

Eminent domain power of Mississippi Transportation Commission, see § 65-1-47.

Applicability of Mississippi Rules of Civil Procedure to eminent domain proceedings, see Miss. R. Civ. P. 71A and 81.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

§ 65-1-329. Final judgments; form.

Final judgments entered in actions instituted under the provisions of this article shall contain a description of the property affected, together with a description of the property and estate of interest acquired by the Transportation Department. A copy of the judgment shall be certified and filed in the land deed records in the chancery clerk office of the county in which the land or any part thereof lies.

SOURCES: Laws, 1997, ch. 439, § 15, eff from and after July 1, 1997.

Cross References — Eminent domain proceedings, generally, see §§ 11-27-1 et seq.

Eminent domain power of Mississippi Transportation Commission, see § 65-1-47.

Applicability of Mississippi Rules of Civil Procedure to eminent domain proceedings, see Miss. R. Civ. P. 71A and 81.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

§ 65-1-331. Just compensation; adverse or conflicting claimants.

If there are adverse and conflicting claimants to the deposit made into the court by the Transportation Department or the additional amount determined as just compensation on which final judgment is entered in the action, the judge may direct the full amount determined to be paid into the court by the Transportation Department, shall release the department from any further involvement and may retain the cause for determination of who is entitled to the monies. By further order in the cause, the court may direct to whom the monies shall be paid and, in its discretion, may order a hearing to ascertain the facts on which such determination and order are to be made.

SOURCES: Laws, 1997, ch. 439, § 16, eff from and after July 1, 1997.

Cross References — Eminent domain proceedings, generally, see §§ 11-27-1 et seq.

Eminent domain power of Mississippi Transportation Commission, see § 65-1-47.

Applicability of Mississippi Rules of Civil Procedure to eminent domain proceedings, see Miss. R. Civ. P. 71A and 81.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

§ 65-1-333. Written agreement in lieu of complaint or declaration of taking.

The provisions of this article shall not prevent the transportation department and the owner from entering into a written agreement whereby the owner agrees and consents that the department may enter upon his property without filing the complaint and declaration of taking and depositing the estimated compensation as provided in this article. The department shall have the same rights under such agreement with the owner in carrying on work on such project as it would have by having filed a complaint and a declaration of taking and having deposited the estimated compensation as provided in this article.

SOURCES: Laws, 1997, ch. 439, § 17, eff from and after July 1, 1997.

Cross References — Eminent domain proceedings, generally, see §§ 11-27-1 et seq.

Eminent domain power of Mississippi Transportation Commission, see § 65-1-47.

Applicability of Mississippi Rules of Civil Procedure to eminent domain proceedings, see Miss. R. Civ. P. 71A and 81.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

§ 65-1-335. Authority of department to enter land to make surveys or other examinations.

The Transportation Department, without having filed a complaint and a declaration as provided in this article, may enter upon any lands and structures to make surveys, borings, soundings, environmental assessments or examinations as may be necessary in carrying out and performing its duties and responsibilities. Any such entry shall not be deemed a trespass or taking within the meaning of this article; however, the department shall make reimbursement for any damage resulting to such land from such activities, and the owner, if necessary, shall be entitled to proceed under the provisions of Section 65-1-317 to recover for such damages.

SOURCES: Laws, 1997, ch. 439, § 18, eff from and after July 1, 1997.

Cross References — Eminent domain proceedings, generally, see §§ 11-27-1 et seq.

Eminent domain power of Mississippi Transportation Commission, see § 65-1-47.

Applicability of Mississippi Rules of Civil Procedure to eminent domain proceedings, see Miss. R. Civ. P. 71A and 81.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

§ 65-1-337. Reimbursement of real property taxes.

A property owner whose property is totally taken in fee simple by the transportation department exercising the power of eminent domain under this article or under any other statute, shall be entitled to reimbursement from the department of the pro rata portion of real property taxes paid that are allocable to a period subsequent to the vesting of title in the department or subsequent to the effective date of possession of such real property, whichever is earlier.

SOURCES: Laws, 1997, ch. 439, § 19, eff from and after July 1, 1997.

Cross References — Eminent domain proceedings, generally, see §§ 11-27-1 et seq.

Eminent domain power of Mississippi Transportation Commission, see § 65-1-47.

Applicability of Mississippi Rules of Civil Procedure to eminent domain proceedings, see Miss. R. Civ. P. 71A and 81.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

§ 65-1-339. Transportation Department entitled to recover amount of deposit exceeding that of final judgment.

If the amount of the final judgment is less than the amount deposited by the Transportation Department pursuant to the provisions of this article, the department shall be entitled to recover the excess of the amount of the deposit over the amount of the final judgment and court costs incident thereto. If there are not sufficient funds on deposit to cover the excess, then the department shall be entitled to a judgment for the sum against the person or persons having received the deposit.

SOURCES: Laws, 1997, ch. 439, § 20, eff from and after July 1, 1997.

Cross References — Eminent domain proceedings, generally, see §§ 11-27-1 et seq.

Eminent domain power of Mississippi Transportation Commission, see § 65-1-47.

Applicability of Mississippi Rules of Civil Procedure to eminent domain proceedings, see Miss. R. Civ. P. 71A and 81.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

§ 65-1-341. Payment of court costs; right of appeal.

The Transportation Department shall pay all court costs taxed by the court. Either party shall have a right of appeal to the Supreme Court for errors of law committed in any proceedings provided for in this article in the same manner as in any other civil actions, and it shall not be necessary that an appeal bond be posted.

The court having jurisdiction of the condemnation action instituted by the department to acquire real property by condemnation shall award the owner any right or title to, or interest in, such real property a sum as will in the opinion of the court reimburse such owner for his reasonable cost, disbursements and expenses, including reasonable attorney fees, appraisal and engineering fees, actually incurred because of the condemnation proceedings, if (a) the final judgment is that the department may not acquire real property by condemnation; or (b) the proceedings are abandoned by the department.

SOURCES: Laws, 1997, ch. 439, § 21, eff from and after July 1, 1997.

Cross References — Eminent domain proceedings, generally, see §§ 11-27-1 et seq.

Eminent domain power of Mississippi Transportation Commission, see § 65-1-47.

Applicability of Mississippi Rules of Civil Procedure to eminent domain proceedings, see Miss. R. Civ. P. 71A and 81.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

§ 65-1-343. Prepayment of court costs.

The circuit clerks and chancery clerks shall not require the transportation department when following the procedure established in this article to prepay the cost of filing of a court action, filing of an instrument or obtaining a copy of any filed instrument from the office of chancery or circuit clerk. The clerk shall furnish an itemized statement and the payment shall be paid in the normal course of business.

SOURCES: Laws, 1997, ch. 439, § 22, eff from and after July 1, 1997.

Cross References — Eminent domain proceedings, generally, see §§ 11-27-1 et seq.

Eminent domain power of Mississippi Transportation Commission, see § 65-1-47.

Applicability of Mississippi Rules of Civil Procedure to eminent domain proceedings, see Miss. R. Civ. P. 71A and 81.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

§ 65-1-345. Relationship to other laws.

The provisions of this article shall not be considered as amending or repealing any other provisions of law that prescribe a procedure for the acquisition of property through eminent domain or condemnation proceedings but shall be considered as a method and procedure that may be employed by the Mississippi Transportation Commission and the Mississippi Department of Transportation as an alternative to any eminent domain or condemnation proceedings as are otherwise prescribed by law.

SOURCES: Laws, 1997, ch. 439, § 23, eff from and after July 1, 1997.

Cross References — Eminent domain proceedings, generally, see §§ 11-27-1 et seq.

Eminent domain power of Mississippi Transportation Commission, see § 65-1-47.

Applicability of Mississippi Rules of Civil Procedure to eminent domain proceedings, see Miss. R. Civ. P. 71A and 81.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

§ 65-1-347. Due process.

Nothing in this article shall be construed so as to deprive the owner of the property or interest in the property which is the subject of acquisition pursuant to this article of due process of law as guaranteed by the Constitutions of the State of Mississippi and of the United States.

SOURCES: Laws, 1997, ch. 439, § 24, eff from and after July 1, 1997.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

ARTICLE 5.

ENFORCEMENT AGREEMENTS WITH CONTIGUOUS STATES.

Sec.
65-1-501. Legislative intent.
65-1-503. Authority to negotiate and enter into interstate agreements.
65-1-505. Contents of agreements; collection and distribution of monies.
65-1-507. Enforcement employees; appointments; positions in other states or departments.
65-1-509. Employees of contiguous states as employees of Mississippi; compensation and benefits; civil and criminal liability.
65-1-511. Employees of this state accepting employment with contiguous states; status; compensation.
65-1-513. Rules and regulations; authority to enact.

§ 65-1-501. Legislative intent.

It is the intent of the Legislature to promote and provide services economically and to streamline the process for the weighing of vehicles, the issuance of permits, the collections of taxes, fees, and assessments and for the enforcement of the laws of this state, and rules and regulations promulgated by the Mississippi Transportation Commission and the laws of the contiguous states and their appropriate agencies and departments, by authorizing the Mississippi Transportation Commission to enter into bilateral agreements with contiguous states through their appropriate officials, departments or agencies, to jointly locate, construct, staff and operate permanent and portable weight scales or ports of entry and for the enforcement of the laws of this state and the rules and regulations of the Mississippi Transportation Commission, and the laws of such contiguous states and its agencies and departments.

SOURCES: Laws, 1998, ch. 426, § 1, eff from and after passage (approved March 23, 1998).

Comparable Laws from other States — Louisiana: La. R.S. 32:7.

§ 65-1-503. Authority to negotiate and enter into interstate agreements.

The Mississippi Transportation Commission may negotiate and enter into interstate agreements with contiguous states through their appropriate officials, departments or agencies, to jointly provide for the location, construction, staffing and operation of portable or permanent scales for the weighing of vehicles and trailers, for the issuance of permits, for the collection of fees, taxes, and assessments, and for the enforcement of the laws of this state and the rules and regulations of the Mississippi Transportation Commission, and the laws of such contiguous states and the rules and regulations of its appropriate agencies or departments.

SOURCES: Laws, 1998, ch. 426, § 2, eff from and after passage (approved March 23, 1998).

§ 65-1-505. Contents of agreements; collection and distribution of monies.

The interstate agreement may authorize employees of either state to weigh machinery, vehicles, trailers and other equipment under the jurisdiction of the Mississippi Transportation Commission, issue permits, collect fees, taxes, interests and penalties imposed by the laws, rules or regulations of either state or its agencies and departments, enforce the laws of either state and the rules and regulations of the Mississippi Transportation Commission and the appropriate agency or department of such contiguous state. All fees, taxes, assessments, interest and penalties imposed and collected for and on behalf of the State of Mississippi in a contiguous state or by any employee of a contiguous state pursuant to an interstate agreement entered into under Sections 65-1-501 through 65-1-513 shall be collected, paid and distributed to the Mississippi Transportation Commission or other appropriate agency of this state as otherwise provided by law for the collection, payment and distribution of such fees, taxes, assessments, interest and penalties in this state.

SOURCES: Laws, 1998, ch. 426, § 3, eff from and after passage (approved March 23, 1998).

§ 65-1-507. Enforcement employees; appointments; positions in other states or departments.

The Mississippi Transportation Commission may appoint employees of the contiguous states as duly authorized and empowered enforcement officers of the Mississippi Transportation Commission for the enforcement of tax, weight, size and load, equipment, safety and all other laws, rules and regulations of this state and the Mississippi Transportation Commission relating to vehicles entering into, exiting, or traveling upon the highways of this state, and may allow employees of the Mississippi Transportation Commission to accept similar positions or appointments with any contiguous state or the appropriate agency or department of such state and to enforce the rules, regulations and laws of such state or its agencies or departments.

SOURCES: Laws, 1998, ch. 426, § 4, eff from and after passage (approved March 23, 1998).

§ 65-1-509. Employees of contiguous states as employees of Mississippi; compensation and benefits; civil and criminal liability.

Any employee of a contiguous state which enters into an interstate agreement under the authority of Sections 65-1-501 through 65-1-513 shall not become an employee of this state or of the Mississippi Transportation Commission, and shall not be compensated by this state or be entitled to any employment benefits either directly or indirectly from this state or the Mississippi Transportation Commission. The State of Mississippi or the Mississippi Transportation Commission or its officers, agents or employees shall not be subject to civil or criminal liability for the actions or inactions of such person.

SOURCES: Laws, 1998, ch. 426, § 5, eff from and after passage (approved March 23, 1998).

§ 65-1-511. Employees of this state accepting employment with contiguous states; status; compensation.

Employees of this state who accept appointments from a contiguous state shall not, by virtue of their appointment, be considered an employee of that state, be compensated by that state or be considered an employee of that state for the purposes of employment rights.

SOURCES: Laws, 1998, ch. 426, § 6, eff from and after passage (approved March 23, 1998).

§ 65-1-513. Rules and regulations; authority to enact.

The Mississippi Transportation Commission may enact all rules and regulations necessary to implement the provisions of Sections 65-1-501 through 65-1-513 and the authority granted in Sections 65-1-501 through 65-1-513 shall be in addition to the powers granted to the Mississippi Transportation Commission by Section 65-1-8.

SOURCES: Laws, 1998, ch. 426, § 7, eff from and after passage (approved March 23, 1998).

ARTICLE 7.

MULTI-MODAL TRANSPORTATION IMPROVEMENT.

SEC.	
65-1-701.	Definitions.
65-1-703.	Multi-Modal Transportation Improvement Fund.
65-1-705.	Port Multi-Modal Fund Committee; Airport Multi-Modal Fund Committee; Railroad Multi-Modal Fund Committee; Public Transit Multi-Modal Fund Committee.
65-1-707.	Allocation of funds; criteria.
65-1-709.	Joint Legislative Multi-Modal Fund Committee; Department of Transportation to submit annual report to joint committee.
65-1-711.	Repealed

§ 65-1-701. Definitions.

As used in this article:

(a) "Airport" means a publicly owned airport in Mississippi.

(b) "Fund" means the Multi-Modal Transportation Improvement Fund created in Section 65-1-703.

(c) "MDA" means the Mississippi Development Authority.

(d) "MDOT" means the Mississippi Department of Transportation.

(e) "Modes" means airports, ports, railroads and transit systems.

(f) "Port" means a public port in Mississippi.

(g) "Railroad" means a publicly owned short line railroad in Mississippi and regional railroad authority as defined in 19-29-5.

(h) "Transit system" means a public transit system in Mississippi.

SOURCES: Laws 2001, ch. 552, § 1; Laws, 2012, ch. 312, § 1, eff from and after passage (approved Mar. 31, 2012.)

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a publishing error in paragraph (b). The words "Section 2 of this article" were changed to "Section 65-1-703." The Joint Committee ratified the correction at its June 2, 2003 meeting.

Amendment Notes — The 2012 amendment added "and regional railroad authority as defined in 19-29-5" at the end of (g).

Cross References — Mississippi Development Authority generally, see §§ 57-1-1 et seq.

§ 65-1-703. Multi-Modal Transportation Improvement Fund.

There is established in the State Treasury a special fund to be designated as the "Multi-Modal Transportation Improvement Fund" into which shall be deposited such state funds as may be designated for deposit therein. Unexpended amounts remaining in the fund at the end of the state fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the fund shall be deposited to the credit of the fund. Money in the fund shall be expended by MDOT as provided for in this article for the improvement of airports, ports, railroads and transit systems in Mississippi.

SOURCES: Laws 2001, ch. 552, § 2, eff from and after July 1, 2001.

Editor's Note — Laws of 2009, ch. 497, § 4 provides:

"SECTION 4. The Executive Director of the Mississippi Department of Transportation is directed to file an application with the Department of Finance and Administration to establish the "Multi-Modal Transportation Improvement Fund" as created in Section 65-1-703. The executive director shall perform all acts necessary to establish the fund as a separate fund within the Statewide Automated Accounting System (SAAS) and the State Treasury before July 1, 2009."

§ 65-1-705. Port Multi-Modal Fund Committee; Airport Multi-Modal Fund Committee; Railroad Multi-Modal Fund Committee; Public Transit Multi-Modal Fund Committee.

(1)(a) There is hereby created the Port Multi-Modal Fund Committee whose membership shall consist of:

(i) Seven (7) directors of ports, appointed by the President of the Mississippi Water Resources Association, or their designees, as follows: three (3) directors of the coastal ports and four (4) directors of the inland river ports;

(ii) The Executive Director of MDA, or his designee;

(iii) The Executive Director of MDOT, or his designee; and

(iv) The Executive Director of the Mississippi Water Resources Association, or his designee.

(b) A majority of the membership of the committee shall constitute a quorum. MDOT shall call meetings of the committee and shall call a meeting for the purpose of reviewing and approving applications as required in Section 65-1-707 by not later than August 1 of each fiscal year.

(2)(a) There is hereby created an Airport Multi-Modal Fund Committee whose membership shall consist of:

(i) Five (5) directors of airports appointed by the President of the Mississippi Airport Association, or their designees, at least three (3) of whom shall represent airports with commercial passenger service;

(ii) The Executive Director of MDA, or his designee; and

(iii) The Executive Director of MDOT, or his designee.

(b) A majority of the membership of the committee shall constitute a quorum. MDOT shall call meetings of the committee and shall call a meeting for the purpose of reviewing and approving applications as required in Section 65-1-707 by not later than August 1 of each fiscal year.

(3)(a) There is hereby created the Railroad Multi-Modal Fund Committee whose membership shall consist of:

(i) The director of each railroad, or his designee;

(ii) The Executive Director of MDA, or his designee; and

(iii) The Executive Director of MDOT, or his designee.

(b) A majority of the membership of the committee shall constitute a quorum. MDOT shall call meetings of the committee and shall call a meeting for the purpose of reviewing and approving applications as required in Section 65-1-707 by not later than August 1 of each fiscal year.

(4)(a) There is hereby created the Public Transit Multi-Modal Fund Committee whose membership shall consist of:

(i) Three (3) directors of transit systems, other than the Coast Transit Authority and the City of Jackson Transit System serving the greater Jackson urbanized area, appointed by the President of the Mississippi Public Transit Association, or their designees;

(ii) The Executive Director of MDA, or his designee; and

(iii) The Executive Director of MDOT, or his designee.

(b) A majority of the membership of the committee shall constitute a quorum. MDOT shall call meetings of the committee and shall call a meeting for the purpose of reviewing and approving applications as required in Section 65-1-707 by not later than August 1 of each fiscal year.

SOURCES: Laws 2001, ch. 552, § 3; Laws, 2004, ch. 326, § 1, eff from and after July 1, 2004.

§ 65-1-707. Allocation of funds; criteria.

(1) During each state fiscal year, MDOT shall distribute the money in the fund among the various modes as follows:

(a) Thirty-eight percent (38%) shall be distributed to ports;

(b) Thirty-four percent (34%) shall be distributed to airports;

(c) Sixteen percent (16%) shall be distributed to transit systems; and

(d) Twelve percent (12%) shall be distributed to railroads.

(2) In order for a port to receive money allocated under subsection (1) of this section, the port shall file an application with MDOT describing how the funds will be used and shall provide such other information as MDOT may require. Such applications shall be reviewed by the Port Multi-Modal Fund Committee. The Port Multi-Modal Fund Committee shall decide which applications shall be approved and the amount of funding for each approved application based upon such criteria as it shall consider appropriate; provided, however, that no application shall be approved or funds distributed pursuant to this article unless the expenditure of such funds shall be:

(a) Directly related to dredging, capital improvements or the rebuilding or rehabilitation of basic infrastructure and not for routine maintenance, administrative or operational expenses;

(b) For a project or use directly related to the operation of the port in its modal role; and

(c) For a purpose outside the normal operating budget of the port.

(3) In order for an airport to receive money allocated under subsection (1) of this section, the airport shall file an application with MDOT describing how the funds will be used and shall provide such other information as MDOT may require. Such applications shall be reviewed by the Airport Multi-Modal Fund Committee. The Airport Multi-Modal Fund Committee shall decide which applications shall be approved and the amount of funding for each approved application based upon such criteria as it shall consider appropriate; provided, however, that no application shall be approved or funds distributed pursuant to this article unless the expenditure of such funds shall be:

(a) Directly related to capital improvements or the rebuilding or rehabilitation of basic infrastructure and not for routine maintenance, administrative or operational expenses;

(b) For a project or use directly related to the operation of the airport in its modal role; and

(c) For a purpose outside the normal operating budget of the airport.

(4) In order for a railroad to receive money allocated under subsection (1) of this section, the railroad shall file an application with MDOT describing how the funds will be used and shall provide such other information as MDOT may require. Such applications shall be reviewed by the Railroad Multi-Modal Fund Committee. The Railroad Multi-Modal Fund Committee shall decide which applications shall be approved and the amount of funding for each approved application based upon such criteria as it shall consider appropriate; provided, however, that no application shall be approved or funds distributed pursuant to this article unless the expenditure of such funds shall be:

(a) Directly related to capital improvements or the rebuilding or rehabilitation of basic infrastructure and not for routine maintenance, administrative or operational expenses;

(b) For a project or use directly related to the operation of the railroad in its modal role; and

(c) For a purpose outside the normal operating budget of the railroad.

(5)(a) Thirty percent (30%) of the money allocated for transit systems under subsection (1) of this section shall be distributed by MDOT to Coast Transit Authority.

(b) Thirty percent (30%) of the money allocated for transit systems under subsection (1) of this section shall be distributed by MDOT to the City of Jackson Transit System serving the greater Jackson urbanized area.

(c) The remainder of the money allocated for transit systems under subsection (1) of this section shall be distributed by MDOT among other transit systems. In order to receive funds under subsection (1) of this section, any such transit system shall file an application with MDOT describing how the money will be used and shall provide such other information as MDOT may require. Such applications shall be reviewed by the Public Transit Multi-Modal Fund Committee. The Public Transit Multi-Modal Fund Committee shall decide which applications shall be approved and the amount of funding for each approved application based upon such criteria as it shall consider appropriate.

(6) As a condition for the receipt of any funds distributed under this section, the port, airport, railroad or transit system shall be required to fund, from public or private sources, not more than ten percent (10%) of the total cost of the project or purpose for which the funds are to be spent. The percentage amount of such matching fund requirement shall be determined by MDOT. In addition to such other contributions and expenditures as may be considered acceptable by MDOT, in-kind contributions and expenditures for the following shall be credited toward the above matching requirement:

(a) Pre-construction studies, planning and design;
(b) Personal property acquisition;
(c) Real property acquisition, reclamation and related relocation costs;
(d) Professional services; and
(e) Construction.

(7) In addition to such other expenditures as may be deemed appropriate by MDOT or hereunder, money distributed from the fund may be used to meet federal matching fund requirements and for pre-construction studies, planning and design; personal property acquisition; real property acquisition, reclamation and related relocation costs; professional services; and construction.

SOURCES: Laws 2001, ch. 552, § 4; Laws, 2004, ch. 326, § 2, eff from and after July 1, 2004.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected publishing errors in the introductory language of subsections (4) and (5). The words "this act" were changed to "this article". The Joint Committee ratified the corrections at its June 3, 2003 meeting.

§ 65-1-709. Joint Legislative Multi-Modal Fund Committee; Department of Transportation to submit annual report to joint committee.

(1) There is hereby created the Joint Legislative Multi-Modal Fund Committee which shall consist of the Chairman of the Senate Highways and Transportation Committee, or his designee; the Chairman of the Senate Ports and Marine Resources Committee, or his designee; the Chairman of the House Transportation Committee, or his designee; and the Chairman of the House Ports, Harbors and Airports Committee, or his designee. Administration of this article shall be subject to oversight by the Joint Legislative Multi-Modal Fund Committee.

(2) MDOT shall annually prepare at its expense a written report on administration of the fund which shall include, without limitation, a description of all applications for funding received under this article, the status of each application, the criteria used to evaluate such application, and an analysis of the return and benefits from funding projects under this article.

MDOT shall consult with the committees established in Section 65-1-705 when preparing such report and provide sufficient copies of the report at no cost to such committees. MDOT shall submit such report to the Joint Legislative Multi-Modal Fund Committee by not later than September 1 of each year.

SOURCES: Laws 2001, ch. 552, § 5; Laws, 2004, ch. 326, § 3, eff from and after July 1, 2004.

§ 65-1-711. Repealed.

Repealed by Laws, 2004, ch. 326, § 4 effective July 1, 2004.
[Laws 2001, ch. 552, § 6, eff from and after July 1, 2001.]

Editor's Note — Former § 65-1-711 provided for the repeal of Sections 65-1-701 through 65-1-711.

CHAPTER 2

State Transportation Arbitration Board

Sec.
65-2-1. State Transportation Arbitration Board created.
65-2-3. Composition of board; terms; compensation.
65-2-5. Calling board into session; jurisdiction.
65-2-7. Conduct of hearings.
65-2-9. Record or transcript.
65-2-11. Hiring of personnel to record hearings.
65-2-13. Board decisions.
65-2-15. Appeal to circuit court.
65-2-17. Appeal to Supreme Court.

§ 65-2-1. State Transportation Arbitration Board created.

It is hereby declared to be the public policy of the State of Mississippi that it is necessary and essential in the public interest to facilitate the prompt, peaceful, and just settlement of conflicts and disputes arising out of contracts for the construction of any building, highway or work, or the doing of any repairs, between the Mississippi Transportation Department and the various contractors with whom it transacts business, and to that end the Legislature does hereby establish the State Transportation Arbitration Board, hereinafter referred to as the board.

SOURCES: Codes, 1942, § 8041.4-01; Laws, 1972, ch. 511, § 1; Laws, 2007, ch. 502, § 1, eff from and after July 1, 2007.

Cross References — Arbitration and award generally, see §§ 11-15-1 et seq.

Arbitration of controversies arising from construction contracts and related agreements generally, see §§ 11-15-101 et seq.

Mississippi Transportation Department generally, see §§ 65-1-1 et seq.

ATTORNEY GENERAL OPINIONS

State Highway Arbitration Board may only hear conflicts and disputes arising out of contracts between State Highway Department and contractors. Shaw, April 1, 1991, A.G. Op. #91-0176.

State Highway Arbitration Board has no authority to hear disputes arising out of contract between county and contractor on State Aid project. Shaw, April 1, 1991, A.G. Op. #91-0176.

§ 65-2-3. Composition of board; terms; compensation.

The board shall be composed of three (3) members, one (1) to be appointed by the Mississippi Transportation Commission, and one (1) to be selected by the Mississippi Road Builders' Association, Incorporated, or its successor organization (hereinafter referred to as the contractors). The third member shall be chosen by agreement of the other two (2) members.

Each board member shall serve for a four-year term at the end of which either the Mississippi Transportation Commission or the contractors may either retain their representative or choose to appoint or select another member.

The Mississippi Transportation Commission shall establish appropriate fees for administering the arbitration process under this chapter and for compensating arbitrators for their service. These fees for each arbitration do not include the attorneys' fees of the parties and shall be assessed to the parties to the arbitration as determined by the board.

SOURCES: Codes, 1942, § 8041.4-02; Laws, 1972, ch. 511, § 2; Laws, 1992, ch. 343, § 1; Laws, 2007, ch. 502, § 2, eff from and after July 1, 2007.

Cross References — Powers and duties of the Mississippi Transportation Commission generally, see § 65-1-8.

RESEARCH REFERENCES

Am Jur. 2 Am. Jur. Legal Forms 2d, Arbitration and Award §§ 23:212 et seq. (appointment of arbitrator).

2 Am. Jur. Legal Forms 2d, Arbitration and Award §§ 23:253, 23:254. (compensation of arbitrator).

CJS. 6 C.J.S., Arbitration §§ 90 et seq, 115 et seq.

§ 65-2-5. Calling board into session; jurisdiction.

The board shall elect a chairman and may adopt rules of procedure. The board may be called into session by the Mississippi Transportation Commission or by a contractor who has a dispute with the Mississippi Department of Transportation which, under the rules of the board, may be the subject of arbitration. The party requesting the board's consideration shall give notice of the same to each member.

Absent agreement of the parties, the board shall have jurisdiction to hear matters concerning Seven Hundred Fifty Thousand Dollars ($750,000.00) or less per contract without regard to the size of the contract. The parties by mutual written agreement may submit to the board claims in excess of the jurisdictional limit of Seven Hundred Fifty Thousand Dollars ($750,000.00). Absent agreement of the parties, the number of arbitration proceedings regarding monetary issues shall be limited to three (3) per contract.

SOURCES: Codes, 1942, § 8041.4-02; Laws, 1972, ch. 511, § 2; Laws, 1992, ch. 343, § 2; Laws, 2007, ch. 502, § 3, eff from and after July 1, 2007.

Cross References — Powers and duties of the Mississippi Transportation Commission generally, see § 65-1-8.

ATTORNEY GENERAL OPINIONS

Section 65-2-5 and Section 65-2-7 contemplate that all issues in controversy will be addressed at same time; this prevents circumvention of jurisdictional amount by breaking up claims into smaller parts. Shaw, Jan. 20, 1994, A.G. Op. #94-0007.

RESEARCH REFERENCES

Am Jur. 2 Am. Jur. Legal Forms 2d, Arbitration and Award §§ 23:282, 23:283. (notice of hearing).

§ 65-2-7. Conduct of hearings.

Attendance of all three (3) members shall be necessary to conduct a meeting. If a member is recused from an arbitration or is unable to serve, that member shall be replaced in the manner originally appointed. Upon being called into session the board shall promptly hold hearings and shall have the power to administer oaths and to compel the attendance of witnesses and the furnishing by the parties of such information as may be necessary to a determination of the issue or issues in dispute. Both parties to the dispute shall have the opportunity to be present at the hearing, both personally and by counsel, and to present such oral and documentary evidence as the board shall deem relevant to the issue or issues in controversy.

SOURCES: Codes, 1942, § 8041.4-02; Laws, 1972, ch. 511, § 2; Laws, 2007, ch. 502, § 4, eff from and after July 1, 2007.

Cross References — Board authorized to hire personnel to record hearings, see § 65-2-11.

ATTORNEY GENERAL OPINIONS

Section 65-2-5 and Section 65-2-7 contemplate that all issues in controversy will be addressed at same time; this prevents circumvention of jurisdictional amount by breaking up claims into smaller parts. Shaw, Jan. 20, 1994, A.G. Op. #94-0007.

RESEARCH REFERENCES

Am Jur. 2A Am. Jur. Pl & Pr Forms (Rev), Form 71 (petition or application by arbitrators for order compelling witness to attend arbitration proceeding).

2A Am. Jur. Pl & Pr Forms (Rev), Arbitration and Award, Form 73 (order to show cause why witness should not testify before arbitrators or be punished for contempt).

2A Am. Jur. Pl & Pr Forms (Rev), Arbitration and Award, Form 74 (order directing witness to appear before arbitrators to testify).

CJS. 6 C.J.S., Arbitration §§ 111 et seq.

§ 65-2-9. Record or transcript.

A full and complete record or transcript of the proceedings before the board shall be taken, and upon proper notice within the time provided for herein a record shall be transcribed and made available to the reviewing court at the cost of the party or parties requesting same.

SOURCES: Codes, 1942, § 8041.4-02; Laws, 1972, ch. 511, § 2, eff from and after passage (approved May 22, 1972).

§ 65-2-11. Hiring of personnel to record hearings.

The board shall have the authority to hire personnel for the purpose of recording the hearings provided for herein, and the costs for such personnel shall be assessed as determined by the board.

SOURCES: Codes, 1942, § 8041.4-02; Laws, 1972, ch. 511, § 2; Laws, 2007, ch. 502, § 5, eff from and after July 1, 2007.

Cross References — Conduct of hearings generally, see § 65-2-7.

RESEARCH REFERENCES

Am Jur. 2 Am. Jur. Legal Forms 2d, Arbitration and Award § 23:235 (employment of stenographic reporter).

§ 65-2-13. Board decisions.

It shall be the duty of the board to make written findings of fact and conclusions of law and to promulgate a written decision and order upon the issue or issues presented in each case. In making such findings the board shall consider only, and be bound only, by the evidence submitted. When a valid contract is in effect defining the rights, duties and liabilities of the parties with respect to any matter in dispute, the board shall have power only to determine the proper interpretation and application of the contract provisions which are involved. Any investigation made by less than the whole membership of the board shall be by authority of a written directive by the chairman and such investigation shall be summarized in writing and considered by the board in reporting its findings and making its recommendation.

The board shall hand down its findings, decision and order (hereinafter referred to as its order) within sixty (60) days after it is called into session. If all three (3) members of the board do not agree, the order of the majority shall constitute the order of the board. The board shall furnish to each of the parties a copy of its order and a certified copy thereof shall be filed in the office of the clerk of the circuit court. Unless such order is reversed upon a petition for review filed pursuant to the provisions of Section 65-2-15, such order, together with such agreements as the parties may themselves have reached, shall become binding upon and shall control the relationship between the parties from the date such order is filed with the clerk of the circuit court, as aforesaid. However, such order may be changed by mutual consent or agreement of the parties.

SOURCES: Codes, 1942, § 8041.4-03; Laws, 1972, ch. 511, § 3; Laws, 2007, ch. 502, § 6, eff from and after July 1, 2007.

RESEARCH REFERENCES

Am Jur. 2 Am. Jur. Legal Forms 2d, Arbitration and Award §§ 23:341-23:343 (award of arbitrators).

CJS. 6 C.J.S., Arbitration §§ 136 et seq., 187 et seq.

§ 65-2-15. Appeal to circuit court.

(1) Either party to the dispute may, within fifteen (15) days from the date such order is filed with the clerk of the court, petition the circuit court of any county in which the contractor operates or has an office or place of business, for a review of such order on the ground that:

(a) The parties were not given reasonable opportunity to be heard;

(b) The board exceeded its powers;

(c) The order is unreasonable in that it is not supported by the evidence; and

(d) The order was procured by fraud, collusion, or other unlawful means or methods.

(2) Upon the filing of an appeal from the decision of the State Transportation Arbitration Board, the decision of that board shall be suspended until it is reinstated or reversed by the circuit judge. The party bringing the appeal shall be required to place a supercedeas bond in an amount to be determined by the circuit judge.

(3) A summons to the other party to the dispute shall be issued as provided by law in other civil cases. Either party shall have the same rights to a change of venue from the county, or to a change of judge, as provided by law in other civil cases. The judge of the circuit court, without the intervention of a jury, shall hear the evidence adduced by both parties with respect to the issue raised by such petition and may reverse said order only if he affirmatively finds that one (1) of the grounds set forth in subsection (1) was in fact present to such a degree that the decision of the board should not be allowed to stand. The decision of the judge of the circuit court shall be final, unless an appeal is taken to the Supreme Court as hereinafter provided. If the court reverses said order for one (1) of the reasons stated herein, and no appeal is taken to the Supreme Court, the decision of the board shall no longer be binding on either party.

SOURCES: Codes, 1942, § 8041.4-04; Laws, 1972, ch. 511, § 4; Laws, 2007, ch. 502, § 7, eff from and after July 1, 2007.

Cross References — Jurisdiction, powers and authority of circuit court generally, see §§ 9-7-81 et seq.

JUDICIAL DECISIONS

1. In general.

The State Highway Commission failed to perfect an appeal to the circuit court and the circuit court therefore had no jurisdiction to dispose of the appeal, where the Commission failed to have a supersedeas bond approved and filed with the circuit court pursuant to Code § 65-2-15. Phillips Constr. Co. v. Mississippi State Hwy. Comm'n, 420 So. 2d 1374 (Miss. 1982).

RESEARCH REFERENCES

CJS. 6 C.J.S., Arbitration §§ 215-218.

Law Reviews. 1982 Mississippi Supreme Court Review: Administrative Law: Workmen's Compensation. 53 Miss. L. J. 113, March 1983.

§ 65-2-17. Appeal to Supreme Court.

Either party may appeal to the Supreme Court from the decision of the judge of the circuit court within the same period of time and following the same procedure as used in appeals from the order of the board to the circuit court.

SOURCES: Codes, 1942, § 8041.4-05; Laws, 1972, ch. 511, § 5, eff from and after passage (approved May 22, 1972).

CHAPTER 3

State Highway System

General Provisions; Additions to and Deletions from State Highway System, 1954-1971 65-3-1
Special Designations of Portions of Highway System and Bridges 65-3-38
Additions to and Deletions from State System after 1971 65-3-72
Construction of State Highway System 65-3-201
Interstate Compact to Promote Four Lanes for US Highway 82 65-3-301

GENERAL PROVISIONS; ADDITIONS TO AND DELETIONS FROM STATE HIGHWAY SYSTEM, 1954-1971

Sec.
65-3-1. Collection of tolls on state highway forbidden; exception.
65-3-3. State highways designated.
65-3-5 through 65-3-27. Repealed.
65-3-8. No citation for violation of revised allowable weight limits for bridges until twenty-four hours after posting of sign indicating revised limits.
65-3-29 through 65-3-31. Repealed.
65-3-33. Repealed.
65-3-34. Additional lanes along Mississippi Highway 552 in Jefferson and Claiborne Counties.
65-3-35. Certain highways designated as scenic route.
65-3-36. Additional designation of highways as scenic route.
65-3-37. Repealed.

§ 65-3-1. Collection of tolls on state highway forbidden; exception.

Subject only to the provisions hereinafter contained, it shall be unlawful for any person, acting privately or in any official capacity or as an employee of any subdivision of the state, to charge or collect any toll or other charge from any person for the privilege of traveling on any part of any highway which has been heretofore or may hereafter be designated as a state highway, and being a part of the state highway system, or on or across any bridge wholly within this state, which is a part of any such highway.

For a violation of this section, any judge or chancellor may, in termtime or vacation, grant an injunction upon complaint of the Mississippi Transportation Commission.

The provisions of this section shall be inapplicable to any toll road or bridge built or operated under the authority of Section 65-43-1 or Section 65-43-3.

SOURCES: Codes, 1942, § 8058; Laws, 1942, ch. 292; Laws, 1948, ch. 332, § 31; Laws, 1950, ch. 400; Laws, 2007, ch. 582, § 24, eff July 18, 2007 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the amendment of this section.)

Editor's Note — On July 18, 2007, the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965 to the amendment of this section by Laws of 2007, ch. 582, § 24.

Cross References — Toll bridges and ferries, see §§ 65-21-7, 65-21-9.

§ 65-3-3. State highways designated.

The following highways are designated as state highways and shall be under the jurisdiction of the Mississippi Transportation Commission for construction and maintenance, and such highways, along with all other laws adding links to the designated state highway system, are declared to be the state highway system of Mississippi:

Mississippi 1— Begins at Onward, Sharkey County, thence in a westerly direction to Filer, thence in a northerly direction to Mayersville, thence continues from Mississippi 14 approximately midway between Mayersville and Rolling Fork to or near Greenville, Rosedale, Sherard and ends at U.S. 49 east of Mississippi River Bridge at Helena, Coahoma County.

Mississippi 2— Begins at or near Hickory Flat, Benton County, and extends in a northeasterly direction to or near Blue Mountain, thence continues from or near Ripley to or near Kossuth to U.S. 72 west of Corinth, thence from U.S. 45 north of Corinth, Alcorn County, northeasterly to the Mississippi-Tennessee state line.

Mississippi 3— Begins at a point on U.S. 61 at or near Redwood, Warren County, and extends in a northeasterly direction to or near Satartia and Yazoo City, thence follows U.S. 49W to or near Inverness, thence in a northeasterly direction to Moorhead, thence north to Sunflower, thence continues along U.S. 49W to Tutwiler, thence in a northeasterly direction to Lambert, Marks, Sledge, Crenshaw, Sarah and Savage to intersect U.S. 61 at or near Lake Cormorant, DeSoto County.

Mississippi 4— Begins at or near Fox Island and extends east to or near Tunica, Coahoma County, thence continues from U.S. 61 south of Tunica to or near Savage, Strayhorn, Senatobia, Holly Springs, and Ashland, thence continues from Mississippi 5 approximately six and one-half miles south of Ashland to or near Ripley, Booneville, Bentonite Mill, Livingstons Store, New Site, and Bay Springs to Mississippi 25 at or near Dennis.

Mississippi 5— Begins on Mississippi 178 near Hickory Flat, Benton County, and extends north to Elvis Chapel Church on U.S. 72, and thence west on U.S. 72 to Harris Chapel Church and thence northwest to Mississippi 7, Benton County.

Mississippi 6— Begins on Mississippi 161 in Clarksdale, thence easterly to Marks, Batesville, Oxford, Pontotoc, Tupelo, thence southerly to Nettleton and ends at its intersection with Mississippi 25 north of Amory.

Mississippi 7— Begins at or near Belzoni, Humphreys County, and extends in a northeasterly direction to or near Swiftown to U.S. 82 north of Itta Bena, thence continues from or near Greenwood to or near Holcomb, Grenada, Coffeeville, Water Valley, Oxford and Holly Springs to the Mississippi-Tennessee state line northeast of Michigan City, Benton County.

Mississippi 8— Begins on Mississippi 1 at or near Rosedale, Bolivar County, and extends in an easterly direction to or near Cleveland, Ruleville, Minter City, Philipp and Holcomb, thence continues from or near Grenada to or near Calhoun City, Houston and Aberdeen and ends on U.S. 278 at or near Greenwood Springs, Monroe County.

Mississippi 9— Begins at or near Ackerman, Choctaw County, and extends in a northerly direction to or near eupora, Bellefontaine and Slate Springs to Mississippi 8 south of Calhoun City, thence continues from or near Calhoun City to or near Bruce, Sarepta, Pontotoc and Sherman, thence continuing from U.S. 78 northwest of Sherman to, at or near Blue Springs and ending at Mississippi 30 at or near Graham, Union County.

Mississippi 9W— Begins on Mississippi 9 north of Bruce, Calhoun County, and extends northerly to or near Banner and Paris to Mississippi 7 at Airport Road south of Markette, Lafayette County.

I-10— From the Mississippi-Louisiana state line east of Slidell, Louisiana, to the Mississippi-Alabama state line southwest of Mobile, Alabama.

U.S. 11— Begins on I-59 at or near Nicholson, south of Picayune, Pearl River County, and extends in a northeasterly direction to or near Picayune, Poplarville, Hattiesburg, Laurel, Enterprise and Meridian, and thence easterly to the Mississippi-Alabama state line, Lauderdale County.

Mississippi 12— Begins on Mississippi 1 at or near James, Washington County, thence continuing through LeRoy Percy State Park and extends in an easterly direction to or near Hollandale, Belzoni, Tchula, Lexington, Durant, Kosciusko and Ackerman to a point on U.S. 82 north of Mississippi State University, thence continues from or near Columbus and extends in a northeasterly direction to the Mississippi-Alabama state line, Lowndes County.

Mississippi 13— Begins at a point on U.S. 49 at or near Maxie, Forrest County, and extends in a northwesterly direction to or near Lumberton and Columbia, thence continues in a northerly direction to or near Prentiss, Mendenhall, Puckett, Daniel, Polkville, Morton and Lena and ends at a point on Mississippi 16 west of Carthage at or near Pine Tree, Leake County.

Mississippi 14— Begins at or near Mayersville, Issaquena County, and extends in an easterly direction to or near Rolling Fork, thence continues from U.S. 61 at or near Anguilla to U.S. 49W at or near Louise, thence continues from, at or near Ebenezer to or near Goodman, Newport and Zemuly to south of Kosciusko to or near Louisville and Macon ending at the Mississippi-Alabama state line east of Macon, Noxubee County.

Mississippi 15— Begins at the intersection of I-10 and I-110, Harrison County, and extends in a northerly direction to or near Beaumont, Laurel, Bay Springs, Newton, Philadelphia, Louisville, Ackerman, Mathiston, Houston, Pontotoc, New Albany, Ripley, Walnut and ends at the Mississippi-Tennessee state line, Tippah County.

Mississippi 16— Begins on Mississippi 1 at or near the Issaquena-Washington county line, thence in a southeasterly direction to Rolling Fork and extends in a southeasterly direction near Little Sunflower River, thence continues from or near Holly Bluff in a northeasterly direction to U.S. 49W at or near Craig, thence continues from or near Yazoo City to or near Benton to U.S. 51 at or near Canton, thence continues to or near Carthage, Philadelphia, Dekalb and Scooba to the Mississippi-Alabama state line east of Scooba, Kemper County.

Mississippi 17— Begins in Scott County on designated Mississippi 25, thence northerly to Mississippi 16 near Farmhaven, thence to or near Pickens, Lexington, Carrollton and ends approximately three and one-tenth miles northeast of North Carrollton, Carroll County.

Mississippi 18— Begins at or near Grand Gulf, Claiborne County, then to or near Port Gibson and extends in a northeasterly direction to or near Hermanville, Utica and Raymond to an intersection with U.S. 80 at or near Jackson, thence from Brandon continues in a southeasterly direction to or near Raleigh and Bay Springs, thence continues in a northeasterly direction to or near Rose Hill, thence southeast to or near Pachuta, thence east to or near Quitman and ends at the Mississippi-Alabama state line east of Quitman, Clarke County.

Mississippi 19— Begins on U.S. 51 at or near West, Holmes County, and extends in a southeasterly direction to or near Kosciusko, Zama, Arlington High School, Yates Crossing, Philadelphia and Meridian, and ends at the Mississippi-Alabama state line southeast of Meridian, Lauderdale County.

I-20— From the Mississippi-Louisiana state line at Vicksburg to a point on I-55 in Jackson and from another point on I-55 southeast of Jackson to a point on I-59 west of Meridian.

Mississippi 21— Begins at a point on Mississippi 35 at or near Forest, Scott County, and runs in a northeasterly direction to or near Sebastopol, Dixon, Neshoba County Fairgrounds, Philadelphia, Bond High School, Preston, Gholson, thence in a northeasterly direction to intersect Mississippi 39 at or near Shuqualak, Noxubee County.

Mississippi 22— Begins at or near Edwards, Hinds County, thence in a northeasterly direction to or near Flora, thence to a point on U.S. 51 at or near Canton, Madison County.

Mississippi 23— Begins on Mississippi 25 at or near Smithville in Monroe County, thence northerly to Tremont, thence to the Mississippi-Alabama state line, Itawamba County, southeast of Golden, Mississippi.

Mississippi 24— Begins at or near Fort Adams, Wilkinson County, and extends in an easterly direction to or near Woodville, Centreville, Gloster, Liberty and McComb, Pike County.

Mississippi 25— Begins at or near Jackson, Hinds County, thence in a northeasterly direction to or near Carthage, Louisville and Starkville, thence along U.S. 82 to its intersection with U.S. 45A, thence along U.S. 45A to Muldon, thence to or near Aberdeen, Amory, Smithville, to U.S. 78, thence continuing to Belmont, Dennis, Tishomingo, Iuka and to the Mississippi-Tennessee state line north of Cross Roads, Tishomingo County.

Mississippi 26— Begins at the Mississippi-Louisiana state line east of Bogalusa, Pearl River County, and extends in an easterly direction to or near Poplarville and Wiggins and ends at or near Lucedale, George County.

Mississippi 27— Begins on the Mississippi-Louisiana state line south of Tylertown, Walthall County, and extends northerly to Tylertown, Monticello, Georgetown, Crystal Springs, Utica and ends at or near Vicksburg, Warren County.

Mississippi 28— Begins at or near Fayette, Jefferson County, and extends to, at or near Hazlehurst, Georgetown, Pinola, Magee and Taylorsville and ends on U.S. 84 west of Laurel, Jones County.

Mississippi 29— Begins at or near Wiggins, Stone County, and extends in a northerly direction to or near Janice, New Augusta, Runnelstown, Ellisville and ends at Mississippi 28 at or near Soso, Jones County.

Mississippi 30— Begins at or near Oxford, Lafayette County, and extends in a northeasterly direction to or near New Albany, thence by Keownsville and Pleasant Ridge, thence to a point at or near Wheeler to intersect U.S. 45, thence along U.S. 45 to south of Booneville, thence from U.S. 45 northeasterly to intersect Mississippi 4 and Mississippi 364, thence to Walden's Store, Hills Chapel, Burton and ends at the Natchez Trace Parkway east of Tishomingo, Tishomingo County.

Mississippi 32— Begins on Mississippi Highway 1 at or near Perthshire, Bolivar County, and extends east to or near Shelby, thence continues from U.S. 49W at or near Parchman easterly to or near Webb, Charleston, Oakland, Water Valley, Bruce and Houlka, thence continues from Mississippi 15 south of Houlka to or near Van Vleet and Okolona, Chickasaw County.

Mississippi 33— Begins at the Mississippi-Louisiana state line, Wilkinson County, and extends northerly to Mississippi 24 at or near Centreville, thence to Gloster to or near Crosby, Knoxville, Roxie and McNair to U.S. 61 south of Fayette, then from or near Fayette northeasterly to or near Red Lick and Pattison to Mississippi 18 at or near Hermanville, Claiborne County.

Mississippi 35— Begins at the Mississippi-Louisiana state line, Marion County, south of Sandy Hook and extends in a northerly direction to a point on U.S. 98 at or near Foxworth, thence continues from or near Columbia to or near Bassfield, Lone Star, Mount Olive, Mize, Raleigh, Forest, Carthage, Kosciusko, Vaiden, Holcomb, Charleston and Batesville and ends at or near the Sardis Dam northeast of Batesville, Panola County.

Mississippi 37— Begins at a point on U.S. 84, Covington County, south of Hot Coffee and extends in a northerly direction to or near Taylorsville, Center Ridge and ends on Mississippi 35 south of Raleigh, Smith County.

Mississippi 39— Begins at or near Meridian, Lauderdale County, and extends in a northerly direction to or near DeKalb and ends on U.S. 45 at or near Shuqualak, Noxubee County.

Mississippi 41— Begins at or near Pontotoc, Pontotoc County, and extends southeasterly to or near Okolona, thence easterly to U.S. 45 at or near Wren, Monroe County.

Mississippi 42— Begins at the Lawrence-Simpson county line northeast of New Hebron and extends to or near New Hebron, Prentiss, Bassfield and Sumrall to U.S. 49 north of Hattiesburg to or near Petal, Runnelstown, Richton, Sand Hill and State Line to the Mississippi-Alabama state line, Wayne County.

Mississippi 43— Begins on U.S. 90 west of Bay St. Louis, Hancock County, and extends in a north northwesterly direction to or near Picayune, thence continues from or near Picayune to Mississippi 26 at or near Cross Roads then to Mississippi 13 south of Prentiss west and north to Arm Road in Section 5, Township 6 North, Range 20 West, Lawrence County, and proceeds northwesterly for approximately four miles to its intersection with U.S. 84 in Section 24, Township 7 North, Range 21 West, thence continues from, at or near Silver Creek, New Hebron and Pinola to Mississippi 13 southwest of Mendenhall, thence continues from Mississippi 18 at or near Puckett, Cross Roads, Pelahatchie and Pisgah to Mississippi 16 at or near Canton, thence to or near Thomastown, Kosciusko, Shady Grove and Friendship ending at the intersection of Mississippi 407 south of Kilmichael, Montgomery County.

Mississippi 44— Begins at or near McComb, Pike County, and extends to or near Pricedale and Jayess to Mississippi 27 east of Jayess, thence continues easterly across the Pearl River to Mississippi 13, Marion County, thence continues from, at or near Columbia to or near Sumrall, Lamar County.

U.S. 45— Begins at the Mississippi-Alabama state line at or near the Town of State Line, Greene County, and extends in a northerly direction to or near Waynesboro, Quitman, Meridian, Scooba, Macon, Brooksville, Columbus, Aberdeen, Nettleton, Shannon, Tupelo, Booneville, Corinth and ends at the Mississippi-Tennessee state line north of Corinth, Alcorn County.

U.S. 45A— Begins at a point on U.S. 45 at or near Brooksville, Noxubee County, and extends in a northerly direction to or near West Point, Okolona, and ends at a point on U.S. 45 at or near Shannon, Lee County.

Mississippi 46— Begins at a point on Mississippi 9 south of Calhoun City, Calhoun County, and extends southeasterly to or near Hohenlinden, Mantee, Montpelier to Mississippi 50 approximately seven miles west of West Point, Clay County.

Mississippi 47— Begins at approximately seven miles west of West Point, Clay County, on Mississippi 50 and runs in a northerly direction to intersect with Mississippi 8 at or near Trebloc, and thence north to Buena Vista, Chickasaw County.

Mississippi 48— Begins at or near Centreville, Wilkinson County, and extends to Liberty, thence continues from Mississippi 24 west of McComb and extends in a southeasterly direction to or near Magnolia, Tylertown and Dexter, thence continues in a southeasterly direction to intersect with Mississippi 35 at Sandy Hook, thence in an easterly direction to or near Lumberton, Lamar County.

U.S. 49— Begins at or near Gulfport, Harrison County, and extends in a northerly direction to or near Wiggins, Hattiesburg, Collins, Mendenhall, Jackson and Yazoo City, thence continues from or near Tutwiler to or near Clarksdale, and thence continues from U.S. 61 north of Clarksdale westward to or near the Mississippi River, Coahoma County, near Helena, Arkansas.

U.S. 49E— Begins at or near Yazoo City, Yazoo County, and extends in a northerly direction to or near Tchula and Greenwood and ends at or near Tutwiler, Tallahatchie County.

U.S. 49W— Begins at or near Yazoo City, Yazoo County, and extends in a northerly direction to or near Belzoni, Indianola and Ruleville and ends at or near Tutwiler, Tallahatchie County.

Mississippi 50— Begins at or near Walthall, Webster County, thence easterly to or near Cumberland to Mississippi 15, thence to or near Pheba, Cedar Bluff and West Point to or near junction Mississippi 373 and U.S. 45, then continues from, at or near Columbus on U.S. 82 northeasterly to the Mississippi-Alabama state line, Lowndes County.

U.S. 51— Begins at the Mississippi-Louisiana state line at or near Osyka, Pike County, and extends in a northerly direction to or near Magnolia, McComb, Summit, Brookhaven, Hazlehurst, Crystal Springs, Jackson, Canton, Durant, Winona, Grenada, Batesville, Senatobia and Hernando and ends at the Mississippi-Tennessee state line north of Horn Lake, DeSoto County.

Mississippi 53— Begins at or near Poplarville, Pearl River County, and extends in a southeasterly direction to or near Necaise and ends at or near Lyman, Harrison County.

I-55— From the Mississippi-Louisiana state line south of McComb via Jackson to the Mississippi-Tennessee state line south of Memphis, Tennessee.

Mississippi 57— Begins at or near Fontainebleau, Jackson County, and extends to or near Vancleave, Benndale, Avent, and McLain, thence continues from U.S. 98 east of McLain to or near Leakesville, thence continues from or near Leakesville northerly to or near State Line on U.S. 45 and ends at its intersection with Mississippi 42, Greene County.

I-59— From the Mississippi-Louisiana state line near Picayune via Hattiesburg, Laurel and Meridian to the Mississippi-Alabama state line west of Cuba, Alabama.

U.S. 61— Begins at the Mississippi-Louisiana state line south of Woodville, Wilkinson County, and extends in a northerly direction to or near Woodville, Natchez, Fayette, Port Gibson, Vicksburg, Rolling Fork, Leland, Cleveland, Clarksdale and Tunica and ends at the Mississippi-Tennessee state line north of Lake View, DeSoto County.

Mississippi 63— Begins from U.S. 90 at or near Pascagoula, Jackson County, and extends in a northerly direction to or near Moss Point, Wade, Lucedale, Leakesville, Sand Hill and ends at or near Waynesboro, Wayne County.

U.S. 65— Begins at the west end of the Mississippi River Bridge at Natchez, Adams County, and extends in an easterly direction to U.S. 61 and thence continues south jointly with U.S. 61 to the Mississippi-Louisiana state line south of Woodville, Wilkinson County.

Mississippi 67— Begins at I-10 and extends north to U.S. 49 at or near Saucier, all in Harrison County.

Mississippi 69— Begins at the Mississippi-Alabama state line and extends northerly to or near Columbus, all in Lowndes County.

U.S. 72— Begins at the Mississippi-Tennessee state line northwest of Mt. Pleasant, Marshall County, and extends in a southeasterly direction to or near Walnut, Corinth and Iuka and ends at the Mississippi-Alabama state line southeast of Iuka, Tishomingo County.

Mississippi 76— Begins on Mississippi 6 west of Pontotoc to Mississippi 9, from Mississippi 9 easterly to U.S. 45 south of Tupelo and continuing easterly to existing Mississippi 6 near Plantersville, and continues from a point approximately 7.482 miles northeast of U.S. 78 near the community of Fairview and extends northeasterly approximately 11 miles to the Mississippi-Alabama state line, Itawamba County.

U.S. 78— Begins at the Mississippi-Tennessee state line northwest of Olive Branch, DeSoto County, and extends in a southeasterly direction to or near Holly Springs, New Albany, Tupelo and Fulton and ends at the Mississippi-Alabama state line east of Fulton, Itawamba County.

U.S. 80— Begins at or near Vicksburg, Warren County, and extends in an easterly direction to or near Jackson, Brandon, Forest, Newton and Meridian and ends at the Mississippi-Alabama state line east of Meridian, Lauderdale County.

U.S. 82— Begins at the Mississippi River Bridge southwest of Greenville, Washington County, and extends in a northeasterly direction to or near Greenville, thence east to or near Leland, Indianola, Greenwood, Carrollton, Winona, Mathiston and Starkville to a point on U.S. 45 west of Columbus, thence continues from or near Columbus to the Mississippi-Alabama state line east of Columbus, Lowndes County.

U.S. 84— Begins at the Mississippi River Bridge at or near Natchez, Adams County, and extends in an easterly direction to U.S. 61 in Natchez, thence continues jointly with U.S. 61 to or near Washington, thence continues from U.S. 61 at or near Washington, to or near Meadville, Brookhaven, Monticello, Prentiss, Collins, Laurel and Waynesboro to the Mississippi-Alabama state line east of Tokio, Wayne County.

U.S. 90— Begins at the Mississippi-Louisiana state line southwest of Pearlington, Hancock County, and extends in an easterly direction to or near Bay St. Louis, Gulfport, Biloxi, Pascagoula, and ends at the Mississippi-Alabama state line, Jackson County, en route to Mobile, Alabama.

U.S. 98— Begins at or near Bude, Franklin County, and extends in a southeasterly direction to or near Summit, thence continues from, at or near McComb to or near Tylertown, Columbia and Hattiesburg, thence continues from I-59 southwest of Hattiesburg to or near New Augusta, Beaumont, McLain and Lucedale to the Mississippi-Alabama state line southeast of Lucedale, George County.

I-110— Begins at its intersection with U.S. 90 in Biloxi thence north to I-10.

Mississippi 145— The various sections of Old U.S. 45 that have been relocated by new construction.

Mississippi 149— The various sections of Old U.S. 49 that have been relocated by new construction.

Mississippi 161— The various sections of Old U.S. 61 that have been relocated by new construction.

Mississippi 172— The various sections of Old U.S. 72 that have been relocated by new construction.

Mississippi 178— The various sections of Old U.S. 78 that have been relocated by new construction.

Mississippi 182— The various sections of Old U.S. 82 that have been relocated by new construction.

Mississippi 184— The various sections of Old U.S. 84 that have been relocated by new construction.

Mississippi 198— The various sections of Old U.S. 98 that have been relocated by new construction.

Mississippi 245— Begins on U.S. 45A south of Okolona, Chickasaw County, thence continues to Mississippi 32/Mississippi 41 at Okolona and continues to Mississippi 145 at Shannon, Lee County.

I-220— Begins at its intersection with I-20 at or near Van Winkle and thence northeasterly a distance of approximately 12 miles to intersect with I-55 at or near the Hinds-Madison county line.

U.S. 278— Begins at the Mississippi-Arkansas state line, continues along U.S. 82 to Leland, thence along U.S. 61 to Clarksdale, continues along Mississippi 6 to Batesville, Oxford, Pontotoc and Tupelo, thence along U.S. 45 to south of Nettleton, near Wren, thence easterly to Amory and ends at the Mississippi-Alabama state line near Gattman, Monroe County.

Mississippi 301— Begins at or near Arkabutla, Tate County, thence north to the Tate-DeSoto county line, thence begins on Mississippi 304 at Eudora to or near Lynchburg and ends at the Mississippi-Tennessee state line, DeSoto County.

Mississippi 302— Begins at U.S. 61, DeSoto County, thence east to U.S. 78 at or near Olive Branch in DeSoto County, thence to U.S. 72 at or near Mount Pleasant in Marshall County.

Mississippi 304— Begins at the Mississippi-Tennessee state line at or near U.S. 72, Marshall County, and thence runs in a southwesterly direction to intersect with U.S. 78 at or near Byhalia and thence runs in a westerly direction to intersect I-55 at or near Hernando and thence runs in a westerly direction to intersect with U.S. 61 in DeSoto County.

Mississippi 305— Begins at or near the north boundary line of Sardis Reservoir, Lafayette County, and extends northerly to Mississippi 310 in Lafayette County, then from Mississippi 4 north to or near Independence, Lewisburg, Olive Branch and ends at the Mississippi-Tennessee state line, DeSoto County.

Mississippi 306— Begins at or near Coldwater and extends to or near Independence, all in Tate County.

Mississippi 309— Begins on Mississippi 4 at or near Chulahoma, Marshall County, Mississippi, and runs thence in a northerly direction to or near the communities of Watson, the Town of Byhalia, and ends at the Mississippi-Tennessee state line north of Barton, Marshall County.

Mississippi 310— Begins on Mississippi 3 in Crenshaw, Panola County, and extends in an easterly direction to Como, then returns from I-55 easterly to the Lafayette county line near Laws Hill, then to Mississippi 7 at or near Malone, Marshall County.

Mississippi 311— Begins on Mississippi 7 at or near Holly Springs and extends northerly to U.S. 72 at or near Mt. Pleasant, all in Marshall County.

Mississippi 313— Begins at or near Hudsonville and extends westerly to Atway, thence northerly to U.S. 72 at or near Slayden, all in Marshall County.

Mississippi 314— Begins at or near Sardis Reservoir and extends southeasterly to or near Oxford, all in Lafayette County.

Mississippi 315— Begins at U.S. Highway 49/Mississippi 61 near the Town of Rich, continues to the Coahoma-Quitman county line, thence easterly to or near Sledge and Sardis, southeasterly to or near Sardis Dam and Water Valley to Mississippi 9W at or near Paris, Lafayette County.

Mississippi 316— Begins at a point on U.S. 61 in Coahoma County, at or near Frank Montory's Place and runs thence in a generally southeasterly direction through Jonestown, thence through Belen to Mississippi 6 west of Marks, Quitman County.

Mississippi 321— Begins on Mississippi 32 east of Webb and extends northerly and ends at or near Brazil, all in Tallahatchie County.

Mississippi 322— Begins at or near Sherard, Coahoma County, and extends east to or near Clarksdale, thence from or near Hopson on U.S. 49 south of Clarksdale east to Mississippi 3 approximately three miles south of Lambert, thence from Lambert to Crowder and ends on the Batesville-Charleston Road east of Crowder, Panola County.

Mississippi 328— Begins where it intersects with Mississippi 315, and extends easterly in a direction approximately eight miles to or near Taylor, thence to or near Markette, Lafayette County.

Mississippi 330— Begins on U.S. 51 west of Tillatoba, Yalobusha County, and extends easterly to or near Coffeeville and Gums, thence east to Bruce, Calhoun County.

Mississippi 331— Begins on Mississippi 9 southwest of Sarepta, Calhoun County, and extends north to or near Tula and ends on Mississippi 334 north of Tula, Lafayette County.

Mississippi 332— Begins at the intersection of Old Mississippi 7 with U.S. 51 approximately one mile north of Grenada and extends in a northeasterly direction to the north abutment of the Grenada Dam, all in Grenada County.

Mississippi 333— Begins at the intersection of Old Mississippi 8 with new Mississippi 8, approximately one mile east of Grenada and extends in a northeasterly direction to its intersection with a federally maintained road leading to the south abutment of the Grenada Dam, all in Grenada County.

Mississippi 334— Begins at or near Oxford, Lafayette County, and extends in an easterly direction to or near Toccopola and ends on Mississippi 9 at or near Springville, Pontotoc County.

Mississippi 336— Begins on Mississippi 6 at or near Lafayette Springs, Lafayette County, and extends to or near Thaxton and Pontotoc, Pontotoc County.

Mississippi 340— Begins at the Calhoun-Chickasaw county line near the Riley Ball Home, thence easterly to Mississippi 341, then continues to Mississippi 15 near Woodland, all in Chickasaw County.

Mississippi 341— Begins at the Webster-Chickasaw county line, thence northerly to or near Atlanta, Vardaman to Mississippi 32, then continues to or near Buckhorn ending on Mississippi 9 southwest of Pontotoc, Pontotoc County.

Mississippi 342— Begins on Mississippi 41 at or near Pontotoc and extends to Mississippi 6 east of Pontotoc, all in Pontotoc County.

Mississippi 345— Begins at or near Pontotoc and extends north and west to or near Ecru, all in Pontotoc County.

Mississippi 346— Begins at or near Sand Springs Church, thence east to or near Esperanza, thence to Mississippi 15 approximately three-fourths mile south of Ecru, all in Pontotoc County.

Mississippi 347— Begins on Mississippi 349 at or near Bethlehem, thence northeasterly and northwesterly to Mississippi 349 approximately two miles south of Potts Camp, all in Marshall County.

Mississippi 348— Begins at or near New Albany, Union County, and extends east to or near Guntown, Lee County.

Mississippi 349— Begins where it intersects with Mississippi 30, Union County, and extends northwesterly to or near Cornersville and Bethlehem and ends at or near Potts Camp, Marshall County.

Mississippi 350— Begins from Mississippi 2 northeast of Corinth, Alcorn County, thence in an easterly direction to Mississippi 25 near the State Line Resort, Tishomingo County.

Mississippi 351— Begins on the Alcorn-Tippah county line thence north to or near Gorforth's Place on Mississippi 2 in Alcorn County.

Mississippi 354— Begins at or near Walnut, thence in a southeasterly direction approximately two and nine-tenths miles, all in Tippah County.

Mississippi 355— Begins at Mississippi 346 near Esperanza, Pontotoc County, and extends northwesterly to or near Pinedale and Etta, then to Mississippi 30 near Gallway, Union County.

Mississippi 356— Begins on the Kossuth-Rienzi Road, Alcorn County, approximately six and one-half miles west of Rienzi and extends east to or near Rienzi and Jacinto, to intersect Mississippi 365 southeast of Jacinto, Prentiss County.

Mississippi 362— Begins at Mississippi 145, runs through Wheeler to Wheeler School, thence from Hopewell Road easterly to intersect at or near the junction with a county road in the northwest quarter of Section 20 approximately one and four-tenths miles west of Mississippi 371, all in Prentiss County.

Mississippi 363— Begins on Mississippi 178 west of Fulton, Itawamba County, and extends north to or near Mantachie, thence north and west to Mississippi 145 at Saltillo, Lee County.

Mississippi 364— Begins on Mississippi 30 east of Booneville, Prentiss County, runs northeast to Mississippi 365 and thence from a point near Holcut east to Mississippi 25 south of Iuka, Tishomingo County.

Mississippi 365— Begins on Mississippi 30 at or near Burton, Prentiss County, thence north to Burnsville to intersect Mississippi 25 at or near Cross Roads, Tishomingo County.

Mississippi 366— Begins east of Baldwyn on Mississippi 370, Prentiss County, thence in an easterly direction to Mississippi 371 at Marietta, thence from Mississippi 25 at or near Belmont to the Mississippi-Alabama state line east of Golden, Tishomingo County.

Mississippi 367— Begins on Mississippi 356 southeast of Jacinto, thence in a northeasterly direction to Alcorn-Tishomingo county line, all in Alcorn County.

Mississippi 368— Begins where it intersects Mississippi 15 at or near Blue Mountain thence easterly to or near Buena Vista School, all in Tippah County.

Mississippi 369— Begins on Mississippi 370 approximately two miles east of Benton-Tippah county line, thence northeasterly to or near Walnut, all in Tippah County.

Mississippi 370— Begins at Mississippi 5 at or near Ashland, Benton County, thence easterly to Mississippi 15 at or near Falkner, thence from Mississippi 4 at or near Ripley southeasterly to or near Dumas thence to Mississippi 30 at or near Pleasant Ridge, thence from Mississippi 30 east of Pleasant Ridge to or near Baldwyn and ends at Mississippi 371 at or near Kirkville, Itawamba County.

Mississippi 371— Begins on Mississippi 6 south of Nettleton, Monroe County, thence north to or near Richmond and Mooreville, thence northeast to or near Mantachie, thence north to or near Marietta and ends on Mississippi 4 southeast of Booneville, Prentiss County.

Mississippi 373— Begins on U.S. 45 approximately four miles north of Columbus, Lowndes County, thence to the South Gate of Columbus Air Force Base, thence from the North Gate of Columbus Air Force Base to U.S. 45 at or near Hamilton, Monroe County.

Mississippi 379— Begins at the Itawamba-Monroe county line and extends northward to a point on Mississippi 371 near Evergreen, all in Itawamba County.

Mississippi 382— Begins on U.S. 45A and thence runs in an easterly direction through Prairie to intersect Mississippi 25 approximately three miles south of Aberdeen, all in Monroe County.

Mississippi 385— Begins at or near Buena Vista and runs in a northwesterly direction to Mississippi 32 at or near Van Vleet, all in Chickasaw County.

Mississippi 388— Begins at or near Brooksville and extends east to or near Cliftonville and to the Mississippi-Alabama state line, all in Noxubee County.

Mississippi 389— Begins on U.S. 82 in Starkville, Oktibbeha County, and runs in a northwesterly direction to the Oktibbeha-Clay county line, thence to a point on Mississippi 46 at Montpelier, continues in a northerly direction to a point on Mississippi 8 in Houston, Chickasaw County.

Mississippi 391— Begins at the east side of T. N. Kinard property line and runs in a northeasterly direction to Winston-Noxubee county line, all in Winston County.

Mississippi 393— Begins on the Winston-Neshoba county line and extends northward to Mississippi 490 at or near Claytown, Winston County.

Mississippi 395— Begins on Mississippi 19 at or near Arlington, Neshoba County, and runs north to Plattsburg, thence east to or near Noxapater, Winston County.

Mississippi 397— Begins at or near Louisville, Winston County, and extends southeast to or near DeKalb, Kemper County.

Mississippi 403— Begins at or near Mathiston and extends north and west to the county highway maintenance barn for District No. 4 in Webster County.

Mississippi 404— Begins at I-55 in Carroll County and extends east to U.S. 51 north of Duck Hill, thence from a point on U.S. 51 at Duck Hill in an easterly direction to beat line of Beat No. 2 in Montgomery County and from the intersection of Cadaretta-Bellefontaine Road at Spring Hill, and extends easterly to or near Bellefontaine in Webster County.

Mississippi 407— Begins on U.S. 51, Montgomery County, thence in a southeasterly direction to Mississippi 413 at French Camp, then from Mississippi 12 at or near Weir southwesterly to the Town of McCool, thence west to intersect Mississippi 12, Attala County.

Mississippi 411— Begins at a point at or near Glendale School on Mississippi 14 in Attala County, Mississippi, and runs in a northerly direction to or near Antioch Church, thence to the Town of McCool, continues over the business route of Mississippi 12 through the Town of McCool to a point just west of the bridge over the Yockanookany River, thence north to Mississippi 12, all in Attala County.

Mississippi 413— Begins at or near Kilmichael, Montgomery County, and extends southeast to or near Weir, Choctaw County.

Mississippi 415— Begins where it intersects the Natchez Trace Parkway, thence southeast to or near Chester, and ends on Mississippi 9 about two and one-half miles northwest of Ackerman, Choctaw County.

Mississippi 424— Begins at or near Holmes State Park and extends east to U.S. 51 south of Durant, Holmes County.

Mississippi 425— Begins at a point on Mississippi 12 and runs in a southeasterly direction to the east city limits of Ethel, all in Attala County.

Mississippi 427— Begins at or near Laurel Hill, Neshoba County, and extends in a northerly direction to Mississippi 16 at Edinburg, then begins approximately two miles north of Edinburg and extends in a northerly direction to Mississippi 25 between Marydell, Leake County, and Mississippi 19 intersection.

Mississippi 429— Begins at or near Blocker's Store, Leake County, and extends northwest to intersect the Natchez Trace Parkway at or near Thomastown, thence northerly to Mississippi 14 at or near Zemuly, thence from Mississippi 14 at or near Newport north to intersect Mississippi 12 north of Sallis, Attala County.

Mississippi 430— Begins at or near Greenwood, Leflore County, thence in a southeasterly direction to Leflore-Carroll county line, thence from a point at or near Black Hawk east to or near Vaiden, Carroll County.

Mississippi 431— Begins in the Village of Sallis, Attala County, 600 feet west of Mississippi 429 and extends easterly to Mississippi 12 east of Sallis.

Mississippi 432— Begins at or near Benton, Yazoo County, and extends northeast to or near Pickens, Holmes County.

Mississippi 433— Begins on U.S. 61 at or near Kelso, Sharkey County, thence northeast to a point south of Spanish Fort, and thence from, at or near Satartia, east to or near Bentonia, thence in a northerly direction to or near Benton, and thence to a point approximately four miles north of the Holmes-Yazoo county line.

Mississippi 434— Begins on U.S. 61 north of Anguilla and extends east to or near Catchings, now Delta City, all in Sharkey County.

Mississippi 436— Begins at or near Glen Allen and extends northeasterly to U.S. 61 at or near Percy, all in Washington County.

Mississippi 438— Begins at or near Wayside, Washington County, and extends to the Washington-Humphreys county line.

Mississippi 440— Begins on Mississippi 19 in Section 2, Township 15 North, Range 5 East, thence easterly to intersect Mississippi 35 at Hesterville, all in Attala County.

Mississippi 442— Begins at Mississippi 448 one mile east of Shaw, Sunflower County, thence in an easterly direction to Steiner, thence in a northerly direction to Linn, thence in an easterly direction to Doddsville and extends easterly to U.S. 49E near Schalter, Leflore County.

Mississippi 444— Begins at Mississippi 1 at or near Round Lake in Bolivar County, thence easterly to intersect U.S. 61 at or near Duncan, Bolivar County.

Mississippi 446— Begins at Mississippi 1 at or near Lobdell and extends east to U.S. 61 at or near Boyle, all in Bolivar County.

Mississippi 448— Begins at or near Benoit, Bolivar County, and extends southeast to or near Shaw, thence in a southeasterly direction to join U.S. 82 at or near Indianola, Sunflower County.

Mississippi 450— Begins at or near Scott on Mississippi 1 and runs in a southeasterly direction to Choctaw on U.S. 61, all in Bolivar County.

Mississippi 454— Begins at or near the Mississippi River Bridge southwest of Greenville and extends east to Mississippi 1 north of Wayside, all in Washington County.

Mississippi 462— Begins on U.S. 61, three miles north of Port Gibson, thence in a northerly direction to a point at or near Willows, being a part of road connecting U.S. 61 and Mississippi 27 formerly Mississippi 3, all in Claiborne County.

Mississippi 463— Begins on Mississippi 22 at or near Livingston, thence southeasterly to U.S. 51 at or near Madison, all in Madison County.

Mississippi 465— Begins at Mississippi 1 near Fitler, Issaquena County, thence southerly via Brunswick and Eagle Lake to U.S. 61 north of Redwood, Warren County.

Mississippi 467— Begins at or near Edwards and extends southeast to or near Raymond, all in Hinds County.

Mississippi 468— Begins three miles north of U.S. 80 on the Fannin Road thence south to U.S. 80, thence in a southeasterly direction to Whitfield, and thence in a northeasterly direction to or near Brandon, all in Rankin County.

Mississippi 469— Begins on Mississippi 28 at or near Fork Church, Simpson County, thence northerly to Harrisville, Florence and extends northeasterly to intersect Mississippi 468, Rankin County.

Mississippi 471— Begins at or near Brandon and extends in a northerly direction to Mississippi 25, thence from a point seven and five-tenths miles northeast on Mississippi 25 to intersect Sand Hill-Canton Road or Mississippi 43, all in Rankin County.

Mississippi 472— Begins approximately two miles east of Hazlehurst, Copiah County, on Old Mississippi 28 near Shady Grove, thence in a southeasterly direction to Rockport; thence begins again in Section 23, Township 10 North, Range 21 West, Simpson County, thence in a northeasterly direction to Mississippi 28 at or near Pinola.

Mississippi 473— Begins at a point on the Copiah-Hinds county line northeast of Crystal Springs, thence northerly to new U.S. 51 near Terry, Hinds County.

Mississippi 475— Begins at a point on Mississippi 468 and extends in a northerly direction to I-20, thence northerly along the western boundary line of the Jackson Municipal Airport (Allen C. Thompson Field) to a point on Mississippi 25, all in Rankin County.

Mississippi 476— Begins at or near Van Winkle and extends easterly to the west corporate limits of Jackson, as the corporate limits were in 1949, all in Hinds County.

Mississippi 477— West Rankin Parkway (New Route)—Begins at Mississippi 25 in the City of Flowood, thence south to U.S. 80 at Pearson Road in the City of Pearl, all in Rankin County.

Mississippi 478— Begins about three miles east of Rockport in Simpson County, and extends in an easterly direction to a point on Mississippi 43.

Mississippi 481— Begins on Mississippi 43, Rankin County, and extends east to the Rankin-Scott county line to Morton, Pulaski, Trenton, Burns and intersects Mississippi 35, Smith County.

Mississippi 482— Begins on Mississippi 16 east of Philadelphia where Sandtown Road leaves Mississippi 16, thence in a northeasterly direction to intersect with Mississippi 491 near Bogue Chitto Indian School; all in Neshoba County. Also begins on Mississippi 19 south of Philadelphia near the Neshoba County Hospital and extends in a northeasterly direction to intersect present Mississippi 482 about one and three-tenths miles north of its intersection with Mississippi 16. This route is now numbered Mississippi 894.

Mississippi 483— Begins at a point on Mississippi 13 at Forkville, thence in a northwesterly direction to Ludlow, Scott County.

Mississippi 484— Begins on Mississippi 488 west of Madden, Leake County, thence through the community of Wright's Springs and thence easterly to the Neshoba county line at the intersection of Mississippi 488 and Mississippi 427.

Mississippi 485— Begins on Mississippi 21, thence in a northeasterly direction to Mississippi 15 at Good Hope, Neshoba County.

Mississippi 486— Begins on Mississippi 16 east of Philadelphia, thence southeasterly to the intersection of Mississippi 491, all in Neshoba County.

Mississippi 487— Begins at or near Lena, Leake County, thence northeasterly to or near Tuscola and Carthage, thence in an easterly direction by Standing Pine, Rosebud and Salem, thence in a southeasterly direction to the intersection of Mississippi 21 at Sebastopol, Scott County.

Mississippi 488 — Begins at or near Mississippi 35 at Carthage, Leake County, and extends to or near Madden, Laurel Hill, and to a point on Mississippi 21 approximately two miles west of Williamsville, Neshoba County.

Mississippi 489— Begins at or near Lake, Scott County, and extends northeast to or near Conehatta to Union, Newton County.

Mississippi 490— Begins at or near Noxapater, Winston County, thence in an easterly direction to intersect Mississippi 397, thence in a northeasterly direction by Old Fearn Springs Post Office to the Noxubee county line.

Mississippi 491— Begins on Mississippi 19, approximately 200 yards south of the Neshoba-Newton county line, thence in a northerly direction to Mississippi 486 southwest of DeWeese and thence from Mississippi 16 at Cross Roads north to Mississippi 21 near the center of Section 22, Township 12 North, Range 13 East, Neshoba County.

Mississippi 492— Begins at the intersection of Mississippi 487 at or near Tuscola, Leake County, and runs in an easterly direction to or near Walnut Grove and to the south boundary of Golden State Park and continues as Golden State Park Road until it reaches Mississippi 21. Then from a point on Mississippi 21 at or near Sebastopol to or near Union and ends at or near House School east of Mississippi 19, Neshoba County.

Mississippi 493— Begins at or near Meridian, Lauderdale County, thence in a northerly direction to or near Bailey and Moscow, and ends on Mississippi 16 in Kemper County.

Mississippi 494— Begins on Mississippi 15 at or near Union, Newton County, and extends southeast to or near Little Rock and Dufee to intersect Mississippi 19 at or near Hookston, Lauderdale County.

Mississippi 495— Begins on Mississippi 493 at Bailey's Store, in Lauderdale County, thence in a northerly direction to the Kemper county line, thence by Damacus School and intersection Mississippi 16 at or near Daw's Store and from another point on Mississippi 16 at Daw's Brothers Store, thence northerly to a point on Mississippi 397 approximately one and one-half miles south of Preston, Kemper County.

Mississippi 496— Begins at the intersection of Mississippi 19 in Lauderdale County at Old Odom Store Place, thence in an easterly direction by way of Culpepper, thence to the Mississippi-Alabama state line, Lauderdale County.

Mississippi 498— Begins at a point on U.S. 45 about 12 miles south of Scooba, Kemper County, thence in an easterly direction to Porterville.

Mississippi 500— Begins with its intersection with Mississippi 13 at or near Lena, thence in a easterly direction to a local road at Frank Reeves', thence in a northerly direction to Mississippi 487 at Tuscola, Leake County.

Mississippi 501— Begins on Mississippi 18 approximately eight miles east of Raleigh and extends in a northerly direction to or near Pineville to U.S. 80 in Forest.

Mississippi 502— Begins with its intersection with Mississippi 488 between Standing Pine and Free Trade, thence in an easterly direction by Springfield Baptist Church, Thaggards Clinic, Madden School and intersects Mississippi 488 at Madden Baptist Church in the Village of Madden, all in Leake County.

Mississippi 503— Begins on Mississippi 528 at or near Heidelberg, Jasper County, thence in a northerly direction to Paulding, Hero, Hickory and ends at or near Decatur, Newton County.

Mississippi 504— Begins on Mississippi 15 north of Jasper-Newton county line to Mississippi 503 at Hero, Jasper County.

Mississippi 505— Begins at or near Roberts, Newton County, and extends north to U.S. 80 at or near Lawrence.

Mississippi 508— Begins on U.S. 45 approximately six miles south of Waynesboro and runs southeasterly approximately three miles to Waynesboro Pine Tree Nursery, all in Wayne County.

Mississippi 510— Begins on U.S. 45 at or near Shubuta in Wayne County, thence in an easterly direction to Matherville, thence in a southerly direction to the end of state maintenance, Wayne County.

Mississippi 511— Begins at a point on Mississippi 18 at or near Quitman, Clarke County, thence in a southeasterly direction about seven and two-tenths miles, now known as the Quitman-Crandall Road in Clarke County.

Mississippi 512— Begins on the Clarke-Jasper county line, thence easterly on the Old Paulding and Pachuta Road to Mississippi 18 at Pachuta, thence continues jointly with Mississippi 18 approximately two miles southeast of Pachuta, thence to U.S. 45 in Quitman, Clarke County.

Mississippi 513— Begins on Mississippi 18 in the Town of Rose Hill, Jasper County, thence to Enterprise on U.S. 11 and extends southeasterly to or near Quitman, Clarke County.

Mississippi 514— Begins at a point on Mississippi 513 in Enterprise, thence in an easterly direction to a point on U.S. 45 near the northeast corner of the southeast quarter of Section 20, Township 4 North, Range 16 East, all in Clarke County.

Mississippi 528— Begins at or near Bay Springs and extends to U.S. 11 at or near Heidelberg, all in Jasper County.

Mississippi 529— Begins with its intersection on U.S. 84 at or near Hebron community, thence in a northerly direction to Mississippi 28 at Gitano, Jones County.

Mississippi 531— Begins on Mississippi 28 approximately one mile east of Taylorsville in Smith County, thence in a northeasterly direction to the intersection with Mississippi 18 approximately three miles west of Bay Springs, Jasper County.

Mississippi 532— Begins at or near Mt. Olive, Covington County, and extends southeasterly via Hot Coffee, ending at U.S. 84 at or near Reddoch, Covington County.

Mississippi 533— Begins where it intersects Mississippi 28 at or near Soso, Jones County, thence in a northerly direction along the Ridge Road to Mississippi 15 at or near Stringer, Jasper County.

Mississippi 535— Begins at Seminary, thence in a northeasterly direction to a point on Mississippi 588, all in Covington County.

Mississippi 536— Begins on Mississippi 15 in Section 12, Township 7 North, Range 11 West, in Jones County, and extending in a northerly and southeasterly direction to Mississippi 63 in Wayne County in Section 26, Township 7 North, Range 8 West.

Mississippi 537— Begins at or near Laurel, Jones County, and extends northerly to the Jones-Jasper county line, thence northwesterly and southwesterly via Mossville to Mississippi 15, Jones County.

Mississippi 540— Begins at the intersection of Mississippi 469 at Harrisville, Simpson County, and extends easterly to Old U.S. 49 and Mississippi 13 at or near Mendenhall, thence southeasterly to new U.S. 49, thence in a northerly and easterly direction to a point on Mississippi 541 at Roy Upton's Store, thence northeasterly and easterly to intersect Mississippi 35 south of Raleigh, Smith County.

Mississippi 541— Begins approximately five miles south of the Simpson county line in Jefferson Davis County, thence in a northerly direction to or near Magee, Martinville and to intersect Mississippi 18 southeast of Puckett, and from another point on Mississippi 18 at or near White Oak, thence in a northwesterly direction to intersect Mississippi 13 north of Puckett, Smith County.

Mississippi 545— Begins at the intersection with Mississippi 28 in Simpson County, thence in a northerly direction for a distance of approximately two miles along the State Farm Road by and through the State Sanatorium Farm to a point of intersection with U.S. 49, all in Simpson County.

Mississippi 547— Begins at or near Port Gibson, Claiborne County, and extends southeasterly via Pattison to or near Allen, thence from a point on Mississippi 28 at or near Allen and extending in an easterly direction to Copiah-Lincoln county line.

Mississippi 548— Begins four miles east of Mississippi 18 at or near Hermanville, Claiborne County, thence easterly to the Claiborne-Copiah county line.

Mississippi 550— Begins on Mississippi 28 at or near Union Church, Jefferson County, and extends southeasterly to or near Brookhaven, Lincoln County.

Mississippi 552— Begins at the Mississippi River at or near the mouth of Bayou Pierre, Claiborne County, thence easterly then southerly on the Port Gibson-Alcorn University Road, and extends southerly to Alcorn State University, thence southeasterly to or near Lorman, thence in an easterly direction to

Red Lick, thence near Blue Hill, and continues from McBride and intersects Mississippi 28 at Pleasant Hill, Jefferson County.

Mississippi 553— Begins on U.S. 61 at or near Stanton, Adams County, and extends in a northerly direction to or near Church Hill, thence in an easterly direction to Fayette, thence in a northerly direction to Harriston, Jefferson County.

Mississippi 554— Begins at or near Pine Ridge and extends to U.S. 61 at or near Selma, all in Adams County.

Mississippi 555— Begins at the road junction in Section 50, Township 6 North, Range 2 West, and extends in a northwesterly direction to U.S. 61 south of Natchez and from another point in Natchez, northeasterly to Pine Ridge, and thence three and eight-tenths miles north to Old Pine Ridge School, all in Adams County.

Mississippi 556— Begins on Mississippi 184 at or near Meadville, thence in a southeasterly direction to intersect U.S. 98, all in Franklin County.

Mississippi 558— Begins west of I-55 and extends along Brookway Boulevard to U.S. 51, thence continues to Mississippi 184 (Monticello Street), all in Brookhaven, Lincoln County.

Mississippi 563— Begins on U.S. 61 approximately three miles north of Woodville, thence to Wilkinson in a northeasterly direction to or near Crosby, all in Wilkinson County.

Mississippi 567— Begins on Mississippi 24 at or near Liberty, Amite County, and runs in a northerly direction to U.S. 98 south of Bude, Franklin County, except that section from Butler's Crossing, easterly to Zion Hill Baptist Church.

Mississippi 568— Begins at the Mississippi-Louisiana state line in Amite County and extends in a northeasterly direction to or near Gillsburg and ends on U.S. 51 south of Magnolia, Pike County.

Mississippi 569— Begins on Mississippi-Louisiana state line, Amite County, and extends in a northeasterly direction to Mississippi 48 at or near Beachwood, and from Mississippi 24 at or near Liberty in a northeasterly direction to Smithdale to intersect U.S. 98 at or near Auburn, Lincoln County.

Mississippi 570— Begins on U.S. 98 in Franklin County, thence in a southeasterly direction to or near Smithdale and McComb, thence from a point on Mississippi 44 in McComb to or near Felders and to intersect Mississippi 44 at or near Pricedale, Pike County.

Mississippi 571— Begins at a point approximately one mile east of Gillsburg on Mississippi 584 and runs in a southerly direction to connect with Louisiana 441, all in Amite County.

Mississippi 575— Begins at Progress, thence northeasterly for a distance of approximately four miles to a point of intersection with Mississippi 48, all in Pike County.

Mississippi 583— Begins at or near Brookhaven, Lincoln County, thence in a southeasterly direction through Enterprise and Ruth to intersect Mississippi 44 at Alton Brister's Store, thence southeasterly to or near Tylertown, Walthall County.

Mississippi 584— Begins at Liberty, Amite County, and runs in a southeasterly direction to or near Gillsburg, then to U.S. 51 at or near Osyka, Pike County.

Mississippi 585— Begins on U.S. 98 east of Tylertown, thence in a northeasterly direction to intersect Mississippi 586 at or near Darbon, all in Walthall County.

Mississippi 586— Begins at or near Darbon on Mississippi 585, thence in a southeasterly direction to U.S. 98 at or near Foxworth, Marion County.

Mississippi 587— Begins on U.S. 98 at Foxworth, Marion County, thence northwesterly to Morgantown, Whitebluff, Tilton and Robinwood to connect with U.S. 84 in Monticello, Lawrence County.

Mississippi 588— Begins on U.S. 84 approximately one mile east of Collins, Covington County, thence in an easterly direction to or near Ellisville, Jones County.

Mississippi 589— Begins at a point on I-59 at or near Purvis, Lamar County, thence in a northwesterly direction to intersect U.S. 98, thence continues northerly to or near Sumrall, then north to U.S. 49 at or near Seminary, Covington County.

Mississippi 590— Begins at a point on U.S. 49 at or near Seminary, Covington County, and extends in an easterly direction to a point on U.S. 11 at or near Ellisville, Jones County.

Mississippi 591— Begins on Mississippi 570 at Felder's Camp Ground, thence northerly approximately two-tenths mile, all in Pike County.

Mississippi 594— Begins on Mississippi 63 south of Leakesville and runs easterly to the Mississippi-Alabama state line, all in Greene County.

Mississippi 598— Begins on U.S. 49 at a point west of Sanford, continues in an easterly direction to another point at Sanford, all in Covington County.

Mississippi 601— A central Harrison County connector from I-10 to U.S. 90 in the vicinity of Canal Road to the Mississippi State Port at Gulfport.

Mississippi 603— Begins on Mississippi 43 at or near Kiln and extends in a northerly direction to or near Necaise, all in Hancock County.

Mississippi 604— Begins on U.S. 90 at or near the Mississippi-Louisiana state line and extends in a northeasterly direction to the Picayune-Bay St. Louis Road near Westonia, all in Hancock County.

Mississippi 605— Begins on U.S. 90 at Cowan Road in Gulfport, thence in a northerly direction along Cowan and Lorraine Roads to I-10, thence continuing to relocated/reconstructed Mississippi 67, northwest to relocated Mississippi 67 at or near U.S. 49, all in Harrison County.

Mississippi 606— Begins at the southern end of the Beach Highway in Hancock County, thence in a northeasterly direction across U.S. 90 to the northern end of Beach Highway.

Mississippi 607— Begins on U.S. 90 west of Bay St. Louis and runs in a westerly and northwesterly direction to I-10 south of N.A.S.A., thence from the intersection with unnumbered state highway at Santa Rosa north of N.A.S.A. to a point on I-59 at or near Nicholson, all in Hancock County.

Mississippi 609— Begins on U.S. 90 in Ocean Springs, thence north to I-10 and thence from the north end of the bridge over Bayou Costapia and extends northerly along what is known as the Old Spanish Trail Highway to approximately three-tenths mile south of George-Jackson county line, all in Jackson County.

Mississippi 611— Begins at the entrance to H. K. Porter Company, Inc., plant site in the Bayou Cassotte Industrial Area at Station 220-00, thence in a northerly direction for a distance of approximately four miles to intersect U.S. 90 at a point about one mile west of Kreole, thence westerly on U.S. 90 to intersect Chico Road, thence northerly on Chico Road and ends on Mississippi 613 south of Moss Point, all in Jackson County to be designated as Mississippi 613.

Mississippi 612— Begins on Mississippi 613 at or near Hathaway's Store, thence in an easterly direction to the Mississippi-Alabama state line, all in George County.

Mississippi 613— Begins on U.S. 90 in Pascagoula, Jackson County, thence northerly via Call Town, Bigpoint, Hurley, Harleston and Agricola to Mississippi 198 at Lucedale, George County.

Mississippi 614— Begins at Wade on Mississippi 63, thence in an easterly direction to or near Hurley, thence to the Mississippi-Alabama state line, all in Jackson County.

Mississippi 615— An east Harrison County connector from U.S. 90 to I-10 to be located between the Cowan-Lorraine Road interchange and the I-110 interchange, thence northerly to relocated/reconstructed Mississippi 67.

Mississippi 617— Begins at Litton Industries, Inc., between West Pascagoula River and East Pascagoula River in the City of Pascagoula and extends north to U.S. 90, all in Jackson County.

Mississippi 618— Mississippi 613 Spur—Begins on Mississippi 613 in Moss Point and extends east to U.S. 90 at Orange Grove, Jackson County.

Mississippi 619— Spur — Extends south to Naval Station, also known as Singing River Island Causeway, all in Jackson County.

Mississippi 621— Begins I-10 and extends in a northerly direction to North Swan Road ending on U.S. 49 at or near Lyman, all in Harrison County.

Mississippi 701— Begins at the intersection of U.S. 78 with Mulberry Street in the Town of Potts Camp, thence southwesterly along Mulberry Street to Front Street, thence southeasterly along Front Street to Ash Street, thence northerly to Mississippi 178, all in Marshall County.

Mississippi 702— Mississippi 5 Spur — Begins on Mississippi 7 and extends east to Michigan City, Benton County.

Mississippi 703— Begins at or near Byhalia Cemetery on Mississippi 178 in the north part of the City of Byhalia, thence runs southeasterly down Main Street to Hood's Store on U.S. 78, all in Marshall County.

Mississippi 704— Begins on Mississippi 7, thence in an easterly direction, approximately one-half mile to Lamar, Benton County.

Mississippi 705— Loop — All in the Town of Hickory Flat off Mississippi 178 in Benton County.

Mississippi 706— Spur — Begins on U.S. 49E and extends west to Sidon, Leflore County.

Mississippi 713— Mississippi 304 Spur — Extends southwesterly to or near Robinsonville, Tunica County, from Mississippi 304.

Mississippi 714— Mississippi 3 Spur — Begins on Mississippi 3 and extends west into Sledge, Quitman County.

Mississippi 716— Mississippi 315 Spur—Begins on Mississippi 315 thence west to Quitman-Tunica county line.

Mississippi 718— U.S. 51 Spur — Begins on U.S. 51 and extends west to Courtland, Panola County.

Mississippi 720— I-55 Connection — Begins on I-55 and extends west to U.S. 51 between Courtland and Pope, Panola County.

Mississippi 722— Spur — Begins on U.S. 51 and extends west to Pope, Panola County.

Mississippi 723— Begins at a point on Mississippi 32 approximately eight miles northwest of Bruce, Calhoun County, runs north of Gulf Interstate Gas Pumping Station.

Mississippi 724— U.S. 51 Spur — Begins on U.S. 51 north of Oakland, Yalobusha County, and extends west into Enid, Tallahatchie County.

Mississippi 725—Mississippi 6 Spur—Begins on Mississippi 6 and extends north to Batesville, Panola County.

Mississippi 726— U.S. 49 Spur — Begins on U.S. 49 and extends south to Tutwiler, Tallahatchie County.

Mississippi 727— Mississippi 32 Connection — Begins on Mississippi 32, Tallahatchie County, and extends east to U.S. 51 in Oakland, Yalobusha County.

Mississippi 728— U.S. 49E Spur — Begins on U.S. 49E and extends east into Sumner, Tallahatchie County.

Mississippi 729— Begins on U.S. 51 and extends northeasterly to I-55, all in Grenada County.

Mississippi 731— Mississippi 35 Connection — Begins on Mississippi 35 in South Kosciusko and extends north to Mississippi 12, all in Attala County.

Mississippi 732— Begins on Mississippi 35 approximately three and one-half miles south of Charleston, thence runs in an easterly direction to Camp Tallaha, Tallahatchie County.

Mississippi 733— Begins at the junction of Old Taylor-Oxford Road with Mississippi 328 near the railroad overpass southwest of Taylor and extends in a northerly direction approximately one mile to an intersection in Taylor, Lafayette County.

Mississippi 734— Spur — Begins on U.S. 49E and extends east into Glendora, Tallahatchie County.

Mississippi 735— Mississippi 12 Loop — Begins on Mississippi 12 and extends east and north to Mississippi 12 in Kosciusko, Attala County.

Mississippi 736— Begins on Mississippi 35 south of the Yockanookany River, then runs easterly through Williamsville to Mississippi 14, all in Attala County.

Mississippi 737—Begins on Mississippi 178 at or near Red Banks, thence through the business district of Red Banks and ends on Mississippi 178, all in Marshall County.

Mississippi 738— Mississippi 6 Connection—Begins on Mississippi 6 and extends west to Mississippi 334 in East Oxford, Lafayette County.

Mississippi 739— Loop — Begins on Mississippi 12 and extends east and north through Ethel, Attala County, to Mississippi 12.

Mississippi 741— Begins at a point at or near Gilliland Hill approximately five miles south of the corporate limits of the City of Kosciusko, Mississippi, thence runs in an easterly direction to Old Mississippi 35, thence in a northerly direction to Texas Eastern Pumping Station, all in Attala County.

Mississippi 743— Spur — Begins on U.S. 82 in South Greenwood at U.S. 49E and extends north, all in Leflore County.

Mississippi 744— Spur — Begins on U.S. 82 in East Greenwood and extends west on East Stone Street, all in Leflore County.

Mississippi 745— Mississippi 182 Connection — Begins on Mississippi 182 and extends southeast to Mississippi 413 in the Town of Kilmichael, all in Montgomery County.

Mississippi 747— That portion of Getwell Road from the Mississippi-Tennessee state line south to its intersection with Church Road, all in DeSoto County.

Mississippi 758— Mississippi 25 Connection—Begins on Mississippi 25 and extends southwest.310 mile to a local road.

Mississippi 759— Mississippi 12 Loop — Begins on Mississippi 12 and extends east and north to Mississippi 12 through Ackerman, all in Choctaw County.

Mississippi 760— Mississippi 25 Connection — Begins on Mississippi 25 south of Belmont and extends east to Golden as Mississippi 366, all in Tishomingo County.

Mississippi 761— Mississippi 178 Spur — Begins on Mississippi 178 and extends north to Myrtle, all in Union County.

Mississippi 762— Mississippi 15 Spur — Begins on Mississippi 15 and extends west to Ingomar, Union County.

Mississippi 763— U.S. 82 Connection — Begins on U.S. 82 and extends northwest to Mississippi 15 in Maben, Oktibbeha County.

Mississippi 764— Mississippi 9 Spur — Begins on Mississippi 9 in Blue Springs, Union County, and extends north.

Mississippi 765— Begins at the Natchez Trace Parkway, runs thence easterly for a distance of approximately 2,800 feet to or near Bland's Store, in the Village of Cumberland, all in Webster County.

Mississippi 766— Begins in the Town of Saltillo at Mississippi 363, and runs in a northerly direction to the intersection of Mississippi 145, all in Lee County.

Mississippi 767— Begins at the intersection of Ridgeroad and Mississippi 25, Tishomingo County, thence southeasterly along Ridgeroad to the Mississippi-Alabama state line, Itawamba County.

Mississippi 768— Begins on Mississippi 15 south of Ackerman, thence in an easterly direction past Choctaw Lake to the 4-H Club Picnic Grounds. This includes a spur past the clubhouse and ends at the picnic grounds, all in Choctaw County.

Mississippi 769— Begins at or near the south corporate limits of Tupelo and extends over Old U.S. 45, proceeds to Green Street in Tupelo, through Tupelo on Green Street to the intersection of Green Street and Mississippi 145 near the north corporate limits of Tupelo, all in Lee County.

Mississippi 770— Connection — Begins on Mississippi 15 and extends west to the intersection of Mississippi 6 and 9 in the Town of Pontotoc, all in Pontotoc County.

Mississippi 772— Mississippi 15 Spur — Begins on Mississippi 15 and extends west to Algoma, Pontotoc County.

Mississippi 773—Commences at the intersection of Center Road and Mississippi 2 and extends northeasterly along Center Road for about two miles to its intersection with Peoples Farm to Market Road, all in Tippah County.

Mississippi 774— U.S. 45 Connection — Begins on U.S. 45 and extends east to Mississippi 6 in the Town of Nettleton, Lee/Monroe County.

Mississippi 775— Mississippi 12 Spur — Begins on Mississippi 12 and extends east at Mississippi State University in Starkville on Old Mississippi 12, all in Oktibbeha County.

Mississippi 776— Begins at the intersection of Old Mississippi 6 and new Mississippi 6, thence runs northeast along Old Mississippi 6 to its intersection with Mississippi 371, all in Monroe County.

Mississippi 777— Begins at or near the southern boundary of the Town of Walnut at or near the intersection of old and new Mississippi 15, follows the route of Old Mississippi 15, and runs through the business section of Walnut and in a northerly direction to intersect U.S. 72, all in Tippah County.

Mississippi 778— Begins at U.S. 78 in Section 22, Township 8 South, Range 4 East, thence in a southeasterly direction in the vicinity of Old U.S. 78 to intersect U.S. 78, or Mississippi 9, at or near Sherman.

Mississippi 779— Spur — Begins on U.S. 72 and extends north to Glen, Alcorn County.

Mississippi 781— Mississippi 50 Spur — Begins on Mississippi 50 near Cedar Bluff and extends to State Lime Plant, all in Clay County.

Mississippi 782— Mississippi 15 Connection—Begins on Mississippi 15 and extends west in Mantee, Webster County.

Mississippi 784— Mississippi 9 Loop — Begins on Mississippi 9 and extends east and north across Mississippi 50 and back to Mississippi 9 in the Town of Walthall, Webster County.

Mississippi 785— U.S. 72 Spur — Begins on U.S. 72 in Corinth and extends north on Davis Street and Cass Street to Wick Street, all in Alcorn County.

Mississippi 786— Begins at a point on U.S. 45, and runs west at distance of approximately 1.27 miles to the Columbus Air Force Base, all in Lowndes County.

Mississippi 788— U.S. 45A Spur — Begins on U.S. 45A and extends east to Artesia, Lowndes County.

Mississippi 789— Begins on U.S. 82 and extends southeasterly along Airport Road and Industrial Park Road to Artesia Road, thence northeasterly along Artesia Road to U.S. 45.

Mississippi 790— Mississippi 9 Connection — Begins on Mississippi 9 and extends northeast to Mississippi 15 north of Ackerman, Choctaw County.

Mississippi 792— Begins on U.S. 45 and extends easterly along Carson Road, for a distance of approximately four and one-half miles to the new Weyerhauser Road, Lowndes County, thence continues south to Mississippi 388 in Noxubee County.

Mississippi 793— Mississippi 30 Spur — Begins on Mississippi 30 west of Tishomingo and extends north to Paden, Tishomingo County.

Mississippi 795— Mississippi Economic and Community Development Highway Project No. DECD-0044(19)B located from Eka Chemical Plant entrance on Nashville Ferry Road located in Section 11, Township 19 South, Range 18 West, northerly along Nashville Ferry Road until it intersects with Pickensville Road, thence northerly along Pickensville Road (existing and relocated) until it intersects with Yorkville Road, thence east along Yorkville Road to U.S. 69 located in Section 26, Township 18 South, Range 18 West, for a total length of 4.419 miles.

Mississippi 801— Begins on Mississippi 27 north of Crystal Springs, Copiah County, thence north to Copiah-Hinds county line. This was Old U.S. 51.

Mississippi 802— U.S. 61 Spur — Begins on U.S. 61 and extends northwest into the Town of Alligator, Bolivar County.

Mississippi 804— Mississippi 1 Loop — A loop on Mississippi 1 at Gunnison, Bolivar County.

Mississippi 806— Begins at the intersection of the south end of new U.S. 49W bypass just south of Isola, thence into Isola to the north end of U.S. 49 bypass, Humphreys County.

Mississippi 808— Begins on U.S. 61 in Port Gibson, thence west to Market Street, thence in a northeasterly direction along Market Street, thence to U.S. 61 approximately three-fourths mile north of Port Gibson, all in Claiborne County.

Mississippi 809— Industrial access road from the port and industrial area to U.S. 82 in Greenville, Washington County.

Mississippi 810— Spur — Begins on U.S. 49W and extends west to Sunflower, Sunflower County.

Mississippi 812— Spur — Begins on U.S. 49W and extends north into Ruleville, Sunflower County.

Mississippi 814— Begins on Mississippi 1 north of Greenville and extends south to north corporate limits of Greenville as Old Mississippi 1 Business Route, thence extends along North Broadway Street in a southerly direction, to the intersection of U.S. 82 and the south corporate limits of Greenville, thence runs easterly to Mississippi 1, all in Washington County.

Mississippi 816— Mississippi 149 Spur — Begins on Mississippi 149 and extends west to Inverness, Sunflower County.

Mississippi 817— Mississippi 8 Spur — Begins at Pace and extends north to Mississippi 8, all in Bolivar County.

Mississippi 818— U.S. 49E Spur — Begins on U.S. 49E and extends west to Cruger, Holmes County.

Mississippi 819— Begins on Mississippi 548 in Hermanville, thence extends northward to Mississippi 18 at Hermanville, Claiborne County.

Mississippi 820— Spur — Begins on U.S. 49W and extends west to Drew, Sunflower County.

Mississippi 822— Begins four-tenths mile west of the intersection of I-20 and U.S. 80 on West Street and extends east approximately six and two-tenths miles, all in Warren County.

Mississippi 824— U.S. 61 Spur — Begins on U.S. 61 and extends west in Anguilla, Sharkey County.

Mississippi 826— Begins at a point on Mississippi 14 approximately one mile west of Rolling Fork and runs south to U.S. 61 south of Rolling Fork, all in Sharkey County.

Mississippi 828— U.S. 49E Spur — Begins on U.S. 49E and extends west to Yazoo City, Yazoo County.

Mississippi 830— U.S. 49 Loop — Begins on U.S. 49 and extends east and north to U.S. 49 at and in Bentonia, Yazoo County.

Mississippi 832— Connection — Begins on U.S. 49W and extends into Doddsville, Sunflower County.

Mississippi 834— A truck route from Harbor Industrial Park to U.S. 61 north, Warren County.

Mississippi 835— Spur — Begins on U.S. 49E and extends north to Tchula, Holmes County.

Mississippi 844— U.S. 51 Loop — Begins at I-55 south of Crystal Springs and extends east across U.S. 51 and north to U.S. 51 in Crystal Springs, all in Copiah County.

Mississippi 848— Spur — Begins on U.S. 51 in Beauregard and extends south on North Street, all in Copiah County.

Mississippi 850— A route from the Wesson Campus of Copiah-Lincoln Junior College directly to U.S. 51, all in Copiah County.

Mississippi 852— U.S. 45A Loop — Begins on U.S. 45A in Brooksville and extends south and east to U.S. 45 at Brooksville, all in Noxubee County.

Mississippi 853— Begins at the point where Mississippi 16 intersects the gravel road and runs along Sections 35 and 36, Township 11 North, Range 12 East, Neshoba County, and runs south along the section lines between Sections 35 and 36 and between Sections 1 and 2, Township 10 North, Range 12 East, to the intersection of the gravel road with Mississippi 486, all in Neshoba County.

Mississippi 854— Begins at its intersection with Mississippi 39 at or near Lizelia and extends easterly approximately three and one-half miles to the United States Naval Auxiliary Air Station, Lauderdale County. The Transportation Commission shall maintain, construct, take over and assume jurisdiction of such highway in the same manner and subject to the same conditions as set out in Sections 65-1-75 and 65-3-3. Such highway shall remain under the jurisdiction of the Transportation Commission for as long as the highway is used to provide access to the United States Naval Auxiliary Air Station or to any other United States government facility.

Mississippi 855— Mississippi 890 Connection — Between Mississippi 890 in Bolton and I-20 north of Bolton, Hinds County.

Mississippi 878— Mississippi 35 Connection — Begins on Mississippi 35 and extends east and north to Mississippi 35 in Walnut Grove, Leake County.

Mississippi 881— U.S. 80 Connection — Begins on U.S. 80 west of Newton and extends southeast approximately two-tenths mile, all in Newton County.

Mississippi 882— Loop — Begins on Mississippi 35 and extends west and north to Mississippi 35 at Harperville, Scott County.

Mississippi 883— Spur — Begins on U.S. 80 and extends south on Decatur Street, Newton County. Was Old Mississippi 15.

Mississippi 884— U.S. 45 Spur — Begins on U.S. 45 and extends south toward Marion, Lauderdale County.

Mississippi 885— Mississippi 16 Connection — Begins on Mississippi 16 west of Philadelphia and extends northwest to intersect with Mississippi 15, all in Neshoba County.

Mississippi 886— Begins at the intersection of I-55 in the Town of Ridgeland thence runs in an easterly direction to U.S. 51 and Jackson Avenue, all in Madison County.

Mississippi 888— Mississippi 13 Spur — Begins on Mississippi 13 and extends west at Roosevelt State Park south of Morton, Scott County.

Mississippi 889— I-20 Connection — Begins at the junction of U.S. 80 and Adams Street in Chunky, thence north to I-20, all in Newton County.

Mississippi 890— U.S. 80 Connection — Frontage Road Connection at Bolton, Hinds County.

Mississippi 892— Mississippi 35 Spur — Begins on Mississippi 35 and extends east to Homewood, Scott County.

Mississippi 894— Begins on Mississippi 19 south of Philadelphia near the Neshoba County Hospital and extends in a northeasterly direction to intersect present Mississippi 482 about one and three-tenths miles north of its intersection with Mississippi 16.

Mississippi 895— Begins at road intersection with U.S. 11 and 80 near the center of Section 26, Township 7 North, Range 17 East, thence northwesterly, northeasterly and southeasterly through Sections 23, 24, 25 and 26 to intersection of U.S. 11 and U.S. 80 in the northeast quarter of the southeast quarter of Section 25, Township 7 North, Range 17 East, Lauderdale County.

Mississippi 897— Begins on Mississippi 496 in Section 11 and continues through Section 13, all in Township 6 North, Range 18 East, to the Mississippi-Alabama state line.

Mississippi 902— Mississippi 35 Connection — Begins on Mississippi 35 at Lorena and extends southwest to Mississippi 481 at Burns, all in Smith County.

Mississippi 903— Begins on U.S. 84 approximately three miles west of Monticello, thence runs in a northerly direction to Lake Mary Crawford, all in Lawrence County.

Mississippi 904— Begins at Lake Lincoln Road, Lincoln County, proceeds easterly to Mississippi 27 at or near Wanilla, Lawrence County.

Mississippi 905— Begins at the intersection of Adams Road with U.S. 51, thence west to Wardlaw Road, and thence continues north to Mississippi 24, all in Pike County.

Mississippi 906— Begins on U.S. 51 in Summit and runs in an easterly direction to intersect Mississippi 570, all in Pike County.

Mississippi 908— A route providing direct access from the interchange at I-55 at or near Summit to Southwest Community College, all in Pike County.

Mississippi 911— Begins on Mississippi 24, now Mississippi 33 in South Gloster, and extends northwest on Kahnville Road, Amite County.

Mississippi 913— Spur — Begins on Mississippi 24, now Mississippi 33 in East Gloster, and extends west to Liberty Road, Amite County.

Mississippi 915— Mississippi 42 and Mississippi 43 Connection — Begins on Jones Street and runs between Mississippi 43 and Mississippi 42, in the Town of New Hebron, Lawrence County.

Mississippi 917— Mississippi 18 Loop — Begins at the intersection of Mississippi 18 at or near the Sylvarena Masonic Lodge and makes what is known as the Sylvarena Loop, coming back into Mississippi 18 at or near the residence of Will Houston, all in Smith County.

Mississippi 923— Mississippi 584 Spur — Begins on Mississippi 584 in the southeast corner of Amite County east of Gillsburg and extends southeast to the Louisiana-Mississippi state line.

Mississippi 927— Spur — Begins on Mississippi 906 east of Summit and extends north to Southwest Community College, Pike County.

Mississippi 928— U.S. 65 Spur — Begins on U.S. 65 in Natchez and extends north on Homochitto Street, Adams County.

Mississippi 930 and 932— Begin on U.S. 61 North in Adams County, in the vicinity of the weighing scales and proceed therefrom to the intersection of Melrose Avenue and East Franklin Street.

Mississippi 937— U.S. 84 Spur — Begins on U.S. 84 in south Prentiss and extends north on Columbia Avenue to the railroad crossing, all in Jefferson Davis County.

Mississippi 938— Begins at the northwest corner of new Mississippi Transportation Department District Office site and extends easterly to U.S. 51 approximately forty-five one-hundredths mile north of the north corporate limits of the City of McComb, Pike County.

Mississippi 946— Mississippi 24 Spur — Begins on Mississippi 24, now Mississippi 33, Amite County, and extends northwest to Centreville, Wilkinson County.

Mississippi 952— Mississippi 513 Spur — Begins on Mississippi 513 and extends north to U.S. 11 in Enterprise, Clarke County.

Mississippi 967— U.S. 49 Spur — Begins on Mississippi 42 in north Hattiesburg and extends south on Main Street, all in Forrest County.

Mississippi 969— Spur — Begins on U.S. 49 approximately 2.84 miles south of U.S. 11, and extends north on Edwards Street approximately .83 miles, all in Hattiesburg, Forrest County.

Mississippi 992— Mississippi 43 Spur — Begins on Mississippi 43 northwest of Picayune and extends south to Picayune, Pearl River County.

SOURCES: Codes, 1930, §§ 4996, 4997; 1942, § 8021; Laws, 1930, ch. 216; Laws, 1934, ch. 396; Laws, 1948, ch. 332, § 7; Laws, 1949, Ex ch. 6, § 2; Laws, 1956, ch. 318; Laws, 1957, Ex Sess ch. 15; Laws, 1958, chs. 385, 409, 422; Laws, 1960, ch. 363; Laws, 1962, chs. 423, 428; Laws, 1963, 1st Ex Sess ch. 19; Laws, 1966, ch. 486, § 1; ch. 511; Laws, 1968, § 1; ch. 462, § 2, ch. 464; Laws, 1969 Ex Sess ch. 44; repealed, Laws, 1981, ch. 464, § 32; reenacted without change Laws, 1985, ch. 537, § 8; reenacted without change, Laws, 1987, ch. 510, § 1; Laws, 2000, ch. 574, § 9; Laws, 2002, ch. 433, § 1; Laws, 2012, ch. 539, § 2, eff from and after July 1, 2012.

Editor's Note — Laws of 1957, Ex. ch. 15, § 2, provides as follows:

"SECTION 2. This act shall not be construed to repeal, amend or alter in any way any of the provisions contained in chapter 207 of laws of 1954."

Laws of 1958, ch. 310, designated U. S. Highway 61, commencing at the Mississippi-Tennessee state line and continuing to Redwood, as the Fielding L. Wright Memorial Highway.

Laws of 1958, ch. 401 designated Mississippi State Highway No. 450 in Bolivar County, running from Mississippi State Highway No. 1 at Scott to U. S. Highway 61 at Choctaw, as the Oscar Johnston Memorial Highway.

Laws of 1963, 1st Ex. Session, ch. 19, § 2, provides, as follows:

"SECTION 2. Mississippi 43 as designated under Section 8021, Mississippi Code of 1942, Recompiled, Item 37, shall continue to be maintained by the highway department from U. S. 90 to Picayune until Mississippi No. 43, redesignated, from Mississippi 603 to Picayune is completed or until maintenance of this section of Mississippi No. 43 is assumed by other authority."

Laws of 1981, ch. 464, § 32, provided that this section would stand repealed from and after July 1, 1985. Subsequently, this section was reenacted without change by Laws of 1985, ch. 537, § 8, effective from and after July 1, 1985, and, by terms of § 28 of ch. 537, would stand repealed from and after July 1, 1987. Thereafter, this section was again reenacted without change by Laws of 1987, ch. 510, § 1, effective July 1, 1987, and, by the terms of § 21 of 1987 ch. 510, shall stand repealed from and after July 1, 1989. Subsequently, Laws of 1989, ch. 317, § 1, amended § 21 of Laws of 1987, ch. 510, by extending the repeal date from July 1, 1989, to July 1, 1993. Finally, Laws of 1993, ch. 357, § 1, repealed Laws of 1981, ch. 464, § 32, Laws of 1985, ch. 537, § 28, Laws of 1987, ch. 510, § 21, and Laws of 1989, ch. 317, § 1.

Amendment Notes — The 2012 amendment substituted "at its intersection with Mississippi 25 north of Amory" for "at or near Amory" in the paragraph designated as "Mississippi 6."

Cross References — Interstate Compact to Promote Four Lanes for U.S. Highway 82, see §§ 65-3-301 et seq.

Addition to the state highway system of highways constructed or improved under the state economic development highway act, see 65-4-17.

JUDICIAL DECISIONS

1. In general.

Where the board of supervisors accepted an offer of the Mississippi State Highway Commission to assume jurisdiction of highway (except drainage structures), and then thereafter also accepted an offer to assume jurisdiction of highways except bridges not up to state standards, the second acceptance was a clarification of the first and was effective notwithstanding the passage of statute which provided for preservation of status quo of all highways taken over by the department. Board of Supvrs. v. Mississippi State Hwy. Comm'n, 221 Miss. 96, 72 So. 2d 237 (1954).

Statutes conferring upon the state highway commission the power of eminent domain do not limit the power to the taking of such property as is needed or necessary, inasmuch as the effect of this legislation is to vest the broad discretion in the highway commission in selecting its routes and other details. Erwin v. Mississippi State Hwy. Comm'n, 213 Miss. 885, 58 So. 2d 52 (1952).

Where a county entered an order to alter and widen a public road which traversed the lands of appellants, the county had jurisdiction notwithstanding the fact that the road had been taken over for maintenance and construction by the state highway department by an order of the state highway commission, where commission's order would not be effective until certain conditions were met. McRaney v. Covington County, 210 Miss. 192, 49 So. 2d 248 (1950).

Where a state highway department, pursuant to Laws 1924, ch. 278, took over certain road in Prentiss County, excepting "all drainage structures not built according to the state standard plans and specifications," and thereafter order was changed to substitute "bridges" for "drainage structures," state highway had no jurisdiction over two bridges which did not comply with the standard, and, therefore, was under no obligation to rebuild them after their destruction by flood waters. Board of Supvrs. v. Mississippi State Hwy. Comm'n, 207 Miss. 839, 42 So. 2d 802 (1949).

Action in mandamus by attorney general to compel board of supervisors to repair a bridge on Highway No. 7 could not be maintained where there was no allegation that the board had failed to provide and maintain a bridge adequate for travel in lieu of the collapsed bridge, and the court had no power or authority to tell the board of supervisors in specific terms what kind of a bridge it should maintain at the location in question. State ex rel. Att'y Gen. v. Board of Supvrs., 196 Miss. 806, 17 So. 2d 433 (1944).

Where the previous applicable statute (Laws 1924, chap. 278), at the time the state highway commission took over a county road under an agreement to maintain it without expense to the county, contained no provision authorizing the commission to obligate itself by any such contract, subsequent abandonment and surrender to the county of a portion of such road so taken over did not constitute an impairment of the obligation of a contract. Wilkinson County v. State Hwy. Comm'n, 191 Miss. 750, 4 So. 2d 298 (1941).

Statutes respecting highway system do not require that State Highway No. 51 follow existing roads between points mentioned in statute. Trahan v. State Hwy. Comm'n, 169 Miss. 732, 151 So. 178 (1933).

Bridge spanning natural stream crossing highway was not a "drainage structure" within highway department's acceptance of county road which excepted drainage structures not built according to department's standard plans and specifications. Jefferson Davis County v. Riley, 158 Miss. 473, 129 So. 283 (1930).

ATTORNEY GENERAL OPINIONS

As to a designated U.S. Highway pursuant to § 65-3-3, segments longer than three miles cannot be removed from the jurisdiction and maintenance of the Mississippi Department of Transportation pursuant to § 65-1-59. Shepard, Jan. 25, 2002, A.G. Op. #02-0008.

The Mississippi Department of Transportation (MDOT) has the duty to maintain portion of Highway 465 which is a substandard road on a levee until such time as the legislature removes it from the state highway system or enacts legislation which otherwise ends the responsibility of MDOT to maintain it. The Mississippi Highway Patrol is required to enforce traffic laws on Highway 465 as provided in Section 45-3-21. Pace, Aug. 7, 2006, A.G. Op. 06-0285.

§§ 65-3-5 through 65-3-27. Repealed.

Repealed by Laws, 2000, ch. 574, § 11, eff from and after passage (approved May 20, 2000).

§ 65-3-5. [Codes, 1942, § 8021.5; Laws, 1954, ch. 298, §§ 1-3 (¶¶ 1-3); Laws, 1956, chs. 316, 317, 319; Laws, 1958, chs. 384, 386, 389, 408; Laws, 1962, 2d Ex. Sess. ch. 23; Laws, 1964, ch. 462; Laws, 1966, ch. 517; Laws, 1968, chs. 461, 462, § 1; Laws, 1969, Ex. Sess., ch. 42; Repealed, Laws, 1981, ch. 464, § 32; reenacted without change, 1985, ch. 537, § 9; reenacted without change, 1987, ch. 510, § 2, eff from and after July 1, 1987]

§ 65-3-7. [Codes, 1942, § 8021.6; Laws, 1956, ch. 311, §§ 1-3; Laws, 1958, chs. 380, 383, 420, § 1, 421, § 1, 423; Laws, 1960, ch. 364, § 5; Laws, 1962, chs. 421, 422, 425, 432; Laws, 1966, chs. 510, § 1, 516; Laws, 1968, chs. 457, 459, 461, 465; Laws, 1969, Ex Sess, ch. 41; Repealed, Laws, 1981, ch. 464, § 32; reenacted without change, 1985, ch. 537, § 10; reenacted without change, 1987, ch. 510, § 3, eff from and after July 1, 1987]

§ 65-3-9. [Codes, 1942, § 8021.65; Laws, 1955, Ex. Sess. chs. 70-72, 75-79, 81-90; Laws, 1958, ch. 381; Laws, 1962, ch. 442; Repealed, Laws, 1981, ch. 464, § 32; reenacted without change, 1985, ch. 537, § 11; reenacted without change, 1987, ch. 510, § 4, eff from and after July 1, 1987]

§ 65-3-11. [Codes, 1942, § 8021.66; Laws, 1958, chs. 387, §§ 1-3, 390-393, §§ 1-3, 395-397, §§ 1-3, 399, §§ 1-4, 400, §§ 1-3, 402-407, §§ 1-3, 410, §§ 1-3, 412-419, §§ 1-3, 424-428, §§ 1-3, 430, §§ 1-3, 431, §§ 1-3; Laws, 1959, Ex. Sess. ch. 32; Laws, 1960, ch. 364, § 6; Laws, 1968, ch. 463; Repealed, Laws, 1981, ch. 464, § 32; reenacted without change, 1985, ch. 537, § 12; reenacted without change, 1987, ch. 510, § 5, eff from and after July 1, 1987]

§ 65-3-13. [Codes, 1942, § 8021.67; Laws, 1960, ch. 364, §§ 1-4; Laws, 1962, chs. 420, § 1, 440; Laws, 1966, Ex. Sess. ch. 36. Repealed, Laws, 1981, ch. 464, § 32; reenacted without change, 1985, ch. 537, § 13; reenacted without change, 1987, ch. 510, § 6, eff from and after July 1, 1987]

§ 65-3-15. [Codes, 1942, § 8021.68; Laws, 1962, chs. 420-422, 425, 426, 428, 429, §§ 1-4, 431, 433, §§ 1-4, 434, 435, §§ 1-4, 436, 437, 438, §§ 1-4, 439, 442, 443, §§ 1-4, 444, §§ 1-4; Laws, 1966, ch. 503, § 1; Laws, 1968, ch. 515; Repealed, Laws, 1981, ch. 464, § 32; reenacted without change, 1985, ch. 537, § 14; reenacted without change, 1987, ch. 510, § 7, eff from and after July 1, 1987]

§ 65-3-17. [Codes, 1942, § 8021.69; Laws, 1962, 2d Ex. Sess. ch. 24; Laws, 1963, 1st Ex. Sess. chs. 17, 18; Laws, 1964, chs. 461, 462, 463, 464, 465; Laws, 1966, ch. 507, § 1; Laws, 1969, Ex. Sess. ch. 40; Repealed, Laws, 1981, ch. 464,

§ 32; reenacted without change, 1985, ch. 537, § 15; reenacted without change, 1987, ch. 510, § 8, eff from and after July 1, 1987]

§ 65-3-19. [Codes, 1942, § 8021.691; Laws, 1966, chs. 487, §§ 1-4, 502, §§ 1, 2, 503, § 1, 504, § 1, 508, § 1, 510, § 1, 511, § 1, 512, §§ 1, 2, 513, § 1, 514, § 1, 515, § 1, 517, §§ 1, 2, 518, §§ 1, 2; Laws, 1966, Ex. Sess. chs. 35, 36, 37, 39; Repealed, Laws, 1981, ch. 464, § 32; reenacted without change, 1985, ch. 537, § 16; reenacted without change, 1987, ch. 510, § 9, eff from and after July 1, 1987]

§ 65-3-21. [Codes, 1942, § 8021.692; Laws, 1968, chs. 455, 456, 457, 458, 459, 460, 461, 463, 464, 465]

§ 65-3-23. [Codes, 1942, § 8021.69,3; Laws, 1969, Ex. Sess. chs. 40, 41, 42, 43, 44, 45, 46, 47; Laws, 1970, chs. 431-436; Repealed, Laws, 1981, ch. 464, § 32; reenacted without change, 1985, ch. 537, § 17; reenacted without change, 1987, ch. 510, § 10, eff from and after July 1, 1987]

§ 65-3-25. [Codes, 1942, § 8021.694; Laws, 1971, ch. 425, §§ 1, 2, and 3; Repealed, Laws, 1981, ch. 464, § 32; reenacted without change, 1985, ch. 537, § 18; reenacted without change, 1987, ch. 510, § 11, eff from and after July 1, 1987]

§ 65-3-27. [Codes, 1942, § 8021.7; Laws, 1954, Ex. Sess. ch. 35]

Editor's Note — Former §§ 65-3-5 through 65-3-27 added and deleted certain highway segments to and from the designated state highway system.

§ 65-3-8. No citation for violation of revised allowable weight limits for bridges until twenty-four hours after posting of sign indicating revised limits.

When the Mississippi Department of Transportation designates a bridge as failing to meet the design, standard, sufficiency rating or any other criteria required for allowing certain weight limits on that specific bridge and revises the allowable weight limits for that bridge, no citation may be issued to the driver of a vehicle for violations of the revised weight limits for that bridge until twenty-four (24) hours have elapsed from the completion of the installation of a sign posted on or near the bridge indicating that the allowable weight limits applicable to that bridge have been revised.

SOURCES: Laws, 2009, ch. 554, § 3, eff from and after July 1, 2009.

§§ 65-3-29 through 65-3-31. Repealed.

Repealed by Laws 1981, ch. 464, § 26, eff from and after July 1, 1981.

§ 65-3-29. [Codes, 1942, § 8022-01; Laws, 1968, ch. 453, § 1]

§ 65-3-31. [Codes, 1942, § 8022-02; Laws, 1968, ch. 453, § 2]

Editor's Note — Former § 65-3-29 related to the designation of a four-lane super-highway system. For similar provisions see § 65-3-97 and §§ 65-3-301 et seq.

Former § 65-3-31 provided for additional four-lane highways to connect with interstate and primary systems. For similar provisions, see § 65-3-97 and §§ 65-3-301 et seq.

§ 65-3-33. Repealed.

Repealed by Laws, 2000, ch. 574, § 11, eff from and after passage (May 20, 2000).

[Codes, 1942, § 8022-03; Laws, 1968, ch. 453, § 3; Laws, 1972, ch. 309; repealed, Laws, 1981, ch. 464, § 32; reenacted, Laws, 1985, ch. 537, § 19; reenacted without change, Laws, 1987, ch. 510, § 12, eff from and after July 1, 1987]

Editor's Note — Former § 65-3-33 was entitled "Improvement of certain presently designated state highways."

§ 65-3-34. Additional lanes along Mississippi Highway 552 in Jefferson and Claiborne Counties.

The Mississippi Department of Transportation shall construct and reconstruct to department design standards four (4) lanes for traffic on and along Mississippi Highway 552 in Jefferson and Claiborne Counties beginning at its intersection with United States Highway 61 in Jefferson County and extending to Alcorn State University in Claiborne County. The Transportation Department shall also construct an interchange at the intersection of newly constructed Mississippi Highway 552 and United States Highway 61. Such highway and interchange shall be under the jurisdiction of the Mississippi Transportation Commission for construction and maintenance and, together with the highways designated in Sections 65-3-3 and 65-3-5, and all other laws adding links to the state designated highway system, are declared to be the State Highway System of Mississippi.

SOURCES: Laws, 1994, ch. 485, § 1, eff from and after July 1, 1994.

Editor's Note — Section 65-3-5 referred to in this section was repealed by Laws, 2000, ch. 574, § 11, eff from and after May 20, 2000.

§ 65-3-35. Certain highways designated as scenic route.

The following links of highways located in the State of Mississippi are hereby designated as a scenic route:

U.S. Highway 61 at Woodville, in Wilkinson County, Mississippi, thence to Natchez, in Adams County, thence to Fayette, in Jefferson County, thence to Port Gibson, in Claiborne County, thence across the new Highway 61 Bridge, spanning Bayou Pierre, which shall be known and is hereby designated as the Irwin Russell Memorial Bridge, and which shall be so marked and designated, and from thence to Vicksburg, in Warren County, Mississippi, and running to Redwood, in Warren County, Mississippi; Mississippi Highway No. 3 beginning at point of intersection with U.S. Highway 61, north of Redwood, and running north to Yazoo City, in Yazoo County, Mississippi; U.S. Highway 49-E beginning at Yazoo City in Yazoo County, Mississippi, running north to Greenwood in Leflore County, Mississippi; Mississippi Highway No. 7 beginning at a point at or near Greenwood where same intersects U.S. Highway 49-E, running in a northeasterly direction to Grenada, in Grenada County, Mississippi; Mississippi Highway No. 7, where same intersects U.S. Highway No. 51 north of Grenada, and running north through Water Valley, in Yalobusha County, Oxford, in Lafayette County, Holly Springs, in Marshall County, and north from Holly Springs to the Tennessee-state line north of the community of Slayden, in Marshall County, Mississippi, to intersect the Austin Peay Memorial Highway in the State of Tennessee; U.S. Highway 90 from Mississippi Highway No. 607 in Hancock County, Mississippi, to the Alabama state line; the portion of Mississippi Highway No. 607 beginning at a point of intersection with Interstate Highway 10 and running southeasterly to the point of intersection with U.S. Highway 90.

All links of highway designated herein not now a part of the state system of highways in Mississippi are hereby designated and declared to be on the secondary group of highways in the State of Mississippi.

SOURCES: Codes, 1942, § 8024-03; Laws, 1948, ch. 342, § 2; Laws, 1975, ch. 374; repealed, Laws, 1981, ch. 464, § 32; reenacted without change, Laws, 1985, ch. 537, § 20; reenacted without change, Laws, 1987, ch. 510, § 13, eff from and after July 1, 1987.

Editor's Note — Laws, 1981, ch. 464, § 32, provided that this section would stand repealed from and after July 1, 1985. Subsequently, this section was reenacted without change by Laws, 1985, ch. 537, § 8, effective from and after July 1, 1985, and, by terms of § 28 of ch. 537, would stand repealed from and after July 1, 1987. Thereafter, this section was again reenacted without change by Laws, 1987, ch. 510, § 1, effective July 1, 1987, and, by the terms of § 21 of 1987 ch. 510, shall stand repealed from and after July 1, 1989. Subsequently, Laws, 1989, ch. 317, § 1, amended § 21 of Laws 1987, ch. 510, by extending the repeal date from July 1, 1989, to July 1, 1993. Finally, Laws, 1993, ch. 357, § 1, repealed Laws, 1981, ch. 464, § 32, Laws, 1985, ch. 537, § 28, Laws, 1987, ch. 510, § 21, and Laws, 1989, ch. 317, § 1.

Cross References — For additional designations of scenic highways, see §§ 65-3-38 et seq.

§ 65-3-36. Additional designation of highways as scenic route.

(1) The following segments of highways located in the State of Mississippi are hereby designated as a scenic route:

Mississippi Highway 7 beginning at point of intersection with Interstate 55, running east to the intersection with Mississippi Highway 332, thence southerly along the route of the Grenada Dam then to its intersection with Mississippi Highway 8, thence running west along the route of Mississippi Highway 8 to its intersection with Interstate 55.

(2)(a) The State Highway Department may plan and erect suitable signs and markers along such route and along the interstate approaches to the area. Such signs shall be attractive and designed to invite and encourage tourism, recreation and camping in the area.

(b) The State Highway Department may establish and maintain rest and observation areas along the designated route and may invite the participation of and cooperate with any state, county or municipal agency to assist in the promotion and development of the scenic route hereinabove designated.

SOURCES: Laws, 1974, ch. 421 §§ 1, 2, eff from and after passage (approved March 25, 1974).

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation.

Cross References — For additional designations of scenic highways, see §§ 65-3-38 et seq.

§ 65-3-37. Repealed.

Repealed by Laws, 2000, ch. 574, § 11, eff from and after passage (May 20, 2000).

[Codes, 1942, § 8028-08; Laws, 1948, ch. 338, §§ 1, 2; Repealed, Laws, 1981, ch. 464, § 32; reenacted without change, 1985, ch. 537, § 21; reenacted without change, 1987, ch. 510, § 14, eff from and after July 1, 1987]

Editor's Note — Former § 65-3-37 was entitled "Additional road for state highway system".

SPECIAL DESIGNATIONS OF PORTIONS OF HIGHWAY SYSTEM AND BRIDGES

Sec.	
65-3-38.	Designation of scenic route in Sardis Lake area.
65-3-38.1.	Certain restrictions on designations for highways, roads, streets and bridges.
65-3-39.	"The Veterans' Memorial Highway" designated.
65-3-40.	Portion of Highway 35 in Leake County designated "Veterans' Memorial Highway".
65-3-41.	"Frank Louis Hawkins Memorial Highway" designated.
65-3-43.	"Elvis Aaron Presley Memorial Highway" designated.
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65-3-49.	Designation of scenic route in Arkabutla Lake area.
65-3-51.	"Donnie Gene Kelley Memorial Bridge" designated.
65-3-53.	"Perry Davis Memorial Highway" designated.
65-3-55.	"Hospitality Highway" designated.
65-3-57.	"William G. Walter Memorial Highway" designated.
65-3-58.	"Osborne Bell Memorial Highway" designated.
65-3-59.	"William Faulkner Memorial Highway" designated.
65-3-61.	"James Duncan Arrington Memorial Highway" designated.
65-3-62.	"James O. Eastland Memorial Highway" designated.
65-3-63.	"Hugh White Memorial Highway" designated.
65-3-64.	Designation of scenic route; Mississippi Highway 5 between U.S. Highway 78 and 72.

65-3-65.	“Henry Clarence Strider Memorial Highway” designated.
65-3-66.	“John C. Stennis Highway” designated.
65-3-67.	“John Bell Williams Memorial Highway” designated.
65-3-68.	“George Walter Holloway Memorial Highway” designated.
65-3-69.	“Jake W. Lindsey Highway” designated.
65-3-70.	“William Russell Bonds Memorial Bridge” designated.
65-3-71.	“Dr. W. C. Simmons Memorial Highway” designated.
65-3-71.1.	“Cliff Finch Memorial Highway” designated.
65-3-71.2.	“Howard Dyer Memorial Highway” designated.
65-3-71.3.	“The Singing River” designated.
65-3-71.4.	“George M. Yarbrough Highway” designated.
65-3-71.5.	“John E. Rankin Memorial Bridge” designated.
65-3-71.6.	“Owen Cooper Memorial Highway” designated.
65-3-71.7.	“Lee C. Seymour, Sr., Memorial Highway” designated.
65-3-71.8.	“John Sharp Williams Memorial Bridge” designated.
65-3-71.9.	“Guy Williams Memorial Highway” designated.
65-3-71.10.	Hurricane evacuation routes designated.
65-3-71.11.	“Charles H. Griffin Memorial Highway” designated.
65-3-71.12.	“Bill Harpole Highway” designated.
65-3-71.13.	“Fred J. Vann Memorial Highway,” “Dr. Fayette C. Williams Memorial Highway,” and “Bilbo Anders Memorial Drive” designated.
65-3-71.14.	“Herman Alford Memorial Highway” designated.
65-3-71.15.	“J.A. (Jim) Morrow Memorial Highway” designated.
65-3-71.16.	“Roger B. Latimer Memorial Bridge” designated.
65-3-71.17.	“Castiglia Interchange” designated.
65-3-71.18.	“Hernando de Soto Commemorative Bridge” designated.
65-3-71.19.	“Billy Cooper Highway” designated.
65-3-71.20.	Portion of Mississippi Highway 35 designated as scenic highway.
65-3-71.21.	“W. Felder Dearman Memorial Highway” designated.
65-3-71.22.	“Tammy Wynette Highway” designated.
65-3-71.23.	“Jerry Clower Highway” designated.
65-3-71.24.	Mississippi Highways 63 and 57 designated wildflower routes.
65-3-71.25.	“Vietnam Veterans Memorial Bridge” designated.
65-3-71.26.	“Robert L. Hollimon Memorial Highway” designated.
65-3-71.27.	“Naaman Bryanyan Memorial Highway” designated.
65-3-71.28.	“Larkin I. Smith Memorial Highway” designated.
65-3-71.29.	“Charley Pride Highway” designated.
65-3-71.30.	“George D. ‘Danny’ Nash, Jr., Memorial Highway” designated.
65-3-71.31.	“Pat Patterson Memorial Highway” designated.
65-3-71.32.	“Bobby Runnels Memorial Drive” designated.
65-3-71.33.	“Veterans Memorial Drive” designated.
65-3-71.34.	“Billy M. Langham Memorial Highway” designated.
65-3-71.35.	“State Trooper Bobby ‘Bubba’ Wells Memorial Highway” designated.
65-3-71.36.	“Norton Haas Memorial Highway” designated.
65-3-71.37.	“Rayford Patrick Memorial Highway” designated.
65-3-71.38.	“David Bruce Ladner Memorial Highway” designated.
65-3-71.39.	“Bishop Charles Harrison Mason Memorial Highway” designated.
65-3-71.40.	“Wade Guice Memorial Highway” designated.
65-3-71.41.	“Veterans Memorial Drive” designated.
65-3-71.42.	“Arthur Winstead Memorial Highway” designated.
65-3-71.43.	“William Jerome Huskey Memorial Highway” designated.
65-3-71.44.	“Major General William ‘Bud’ Miley Highway” designated.
65-3-71.45.	“J.D. Batson Memorial Bridge” designated.
65-3-71.46.	“Bobby McRary Memorial Drive” designated.

65-3-71.47. “Military Order of the Purple Heart, Department of Mississippi, Memorial Bridge” designated.
65-3-71.48. “Veterans Memorial Highway” designated.
65-3-71.49. “John McPherson Highway” designated.
65-3-71.50. “Dr. Martin Luther King, Jr., Boulevard” designated.
65-3-71.51. “George Harris, Sr., Memorial Highway” designated.
65-3-71.52. Major General James W. Ball Memorial Highway.
65-3-71.53. “Delvru John Anthony Minor Memorial Highway” designated.
65-3-71.54. “E.C. Gable Memorial Bridge” designated.
65-3-71.55. “C.F. ‘Pappy’ Franklin Memorial Highway” designated.
65-3-71.56. “Joe Clay-John Austin Hatcher Memorial Highway” designated.
65-3-71.57. “31st Infantry Division Memorial Highway” designated.
65-3-71.58. “Hershal L. Grady Memorial Highway”.
65-3-71.59. “Bruce Wayne Evans Memorial Highway” designated.
65-3-71.60. “Waverly Wray Memorial Highway” designated.
65-3-71.61. “Mortimer Barry Memorial Highway” designated.
65-3-71.62. “Jo Doss Miller Memorial Drive” designated.
65-3-71.63. “Military Order of the Purple Heart Drive” designated.
65-3-71.64. “Sheriff E.C. Mullins Memorial Highway” designated.
65-3-71.65. Portion of Mississippi 15 in Philadelphia designated as “Veterans’ Boulevard.”
65-3-71.66. Portion of Mississippi 15/25 in Winston County designated as “Veterans’ Memorial Drive.”
65-3-71.67. “Corporal James D. Slaton Memorial Highway” designated.
65-3-71.68. “Hershel G. Jumper Memorial Highway” designated.
65-3-71.69. Portion of U.S. 61 in Coahoma County designated as “Veterans’ Memorial Drive.”
65-3-71.70. Portion of Mississippi 19 in Lauderdale and Newton Counties designated as “Veterans Highway.”
65-3-71.71. Portion of Mississippi 15 in Newton County designated as “WWII Veterans Highway.”
65-3-71.72. “Jerry St. Pe’ Highway” designated.
65-3-71.73. “Evelyn Gandy Parkway” designated.
65-3-71.74. Portions of Mississippi 304 Spur in Tunica County designated “Martin Luther King, Jr., Memorial Highway.”
65-3-71.75. “Eugene P. Wilkes Memorial Bridge” designated.
65-3-71.76. Portion of Smithdale Road in City of McComb designated as “Veterans Boulevard.”
65-3-71.77. “Stennis Airport Parkway” designated.
65-3-71.78. Portion of Mississippi Highway 315 in Yalobusha and Lafayette Counties designated as “Dr. Dewitt Clinton French Memorial Highway.”
65-3-71.79. Portion of Mississippi Highway 1 in Sharkey and Issaquena Counties designated as “C.B. ‘Buddie’ Newman Memorial Highway.”
65-3-71.80. “Walton Greene Gray Memorial Highway” designated.
65-3-71.81. Portion of Mississippi Highway 18 in Jasper County designated as “Sheriff Tom Royce Green Memorial Highway.”
65-3-71.82. “Stephen E. Ambrose Memorial Highway” designated.
65-3-71.83. Bridge on U.S. Highway 45 spanning Mississippi 19 in Meridian designated “Military Order of the Purple Heart, Department of Mississippi, Memorial Bridge.”
65-3-71.84. ““Medgar Evers Memorial Interchange” designated.”
65-3-71.85. “D’Lo World War II Veterans Highway” designated.
65-3-71.86. “Liberty Parkway” designated.
65-3-71.87. “Alton A. (Dolph) Kellar Memorial Highway” designated.
65-3-71.88. “Lance Corporal Roy M. Wheat Memorial Highway” designated.

65-3-71.89. “Joe Mitch McElwain Memorial Highway” designated.
65-3-71.90. “Korean War Veterans Memorial Highway” designated.
65-3-71.91. “David Bonds Memorial Highway” designated.
65-3-71.92. “J.P. Woods Memorial Highway” designated.
65-3-71.93. “Veterans Memorial Highway” designated.
65-3-71.94. “Deputy Len J. Rowell Memorial Bridge” designated.
65-3-71.95. “Chaney, Goodman and Schwerner Memorial Highway” designated.
65-3-71.96. “Emmitt Till Memorial Highway” designated.
65-3-71.97. “Joe A. Waggoner Memorial Highway” designated.
65-3-71.98. “Heroes Trail” designated.
65-3-71.99. “Officer Ronald Wayne Jones Memorial Highway” designated.
65-3-71.100. “Amie Ewing Memorial Highway” designated.
65-3-71.101. “S.A. (Junior) Hancock Memorial Interchange” designated.
65-3-71.102. “Albert B. Shows Memorial Highway” designated.
65-3-71.103. “Joe Pope Boulevard” designated.
65-3-71.104. “J.O. Southward, Jr., Memorial Highway” designated.
65-3-71.105. “Birdia Keglar Memorial Highway” designated.
65-3-71.106. “Veterans Drive” designated.
65-3-71.107. “Randy Chancellor Memorial Highway” designated.
65-3-71.108. “State Trooper Ralph Newell Memorial Highway” designated.
65-3-71.109. “Richard Wright Memorial Highway” designated.
65-3-71.110. Bridge on Mississippi Highway 9 spanning Skuna River in Calhoun County designated “Military Order of the Purple Heart, Department of Mississippi, Memorial Bridge.”
65-3-71.111. “Hilton ‘Ike’ Shoemake Memorial Highway” designated.
65-3-71.112. “Dudley R. Bozeman Memorial Highway” designated.
65-3-71.113. “Dr. Gilbert R. Mason, Sr., Memorial Highway” designated.
65-3-71.114. “Cpl. Dustin Jerome Lee Memorial Highway” designated.
65-3-71.115. “James C. Simpson, Sr., Memorial Highway” designated.
65-3-71.116. “James ‘Diddio’ McDaniel and Stayce Wilkinson Memorial Highway” designated.
65-3-71.117. “Dr. W.W. Walley Memorial Highway” designated.
65-3-71.118. “Billy Lancaster Memorial Highway” designated.
65-3-71.119. “Mallory-Davis Memorial Highway” designated.
65-3-71.120. “W.C. ‘Bill’ Hancock Memorial Highway” designated.
65-3-71.121. “James Arnold Flowers Highway” designated.
65-3-71.122. “Judith Toups Least Tern Highway” designated.
65-3-71.123. “Major Michael Green Memorial Highway” designated.
65-3-71.124. “Highway 61, the Blues Highway” designated.
65-3-71.125. “Juanell Lollar Memorial Highway” designated.
65-3-71.126. “Charles H. Mason Memorial Highway” designated.
65-3-71.127. “John Stewart Watson Memorial Highway” designated.
65-3-71.128. “Corporal James Calvin ‘Jamie’ Walker Memorial Highway” designated.
65-3-71.129. “Lieutenant Robert J. Curry Memorial Highway” designated.
65-3-71.130. “David R. Brown Memorial Bridge” designated.
65-3-71.131. “William W. ‘Bill’ Ramsey Memorial Highway” designated.
65-3-71.132. “Leo W. Seal, Jr., Memorial Bridge” designated.
65-3-71.133. “Officer Larry DeWayne Lee Memorial Highway” designated.
65-3-71.134. “Louis Jackson Boulevard” designated.
65-3-71.135. “Jackson County Veterans Memorial Bridge” designated.
65-3-71.136. “Veterans Memorial Bypass” designated.
65-3-71.137. “George ‘Happy’ Irby Parkway” designated.
65-3-71.138. “Van T. Barfoot Medal of Honor Highway” designated.
65-3-71.139. “Manning Boulevard” designated.
65-3-71.140. “Jack Lucas Medal of Honor Memorial Highway” designated.

65-3-71.141. “Phyllis Hawkins Harper Interchange” designated.
65-3-71.142. “Donald R. Chambliss, Sr. Memorial Highway” designated.
65-3-71.143. “Bobby H. Johnson Memorial Highway” designated.
65-3-71.144. Memorial intersection for Jack Lewis Dudley designated.
65-3-71.145. “Representative Fred Dobbins Memorial Highway” designated.
65-3-71.146. “John W. Shaw, Sr., Memorial Highway” designated.
65-3-71.147. “Dr. T.R.M. Howard Memorial Highway” designated.
65-3-71.148. “Jeffery Rugheimer Memorial Highway” designated.
65-3-71.149. “Nathaniel Smith, Jr. Memorial Highway” designated.
65-3-71.150. “Terry Micheal Byrd Memorial Highway” designated.
65-3-71.151. “Tammy Wynette Memorial Highway” designated.
65-3-71.152. “Ken Lundberg Memorial Highway” designated.
65-3-71.153. “Veteran’s Memorial Bridge” designated.
65-3-71.154. “Dr. Aaron E. Henry Memorial Highway” designated.
65-3-71.155. “Staff Sergeant Mark Haskin Eaton Memorial Highway” designated.
65-3-71.156. “Euclatubba Memorial Crossing” designated.
65-3-71.157. “The Gulf Ordnance Plant Memorial Highway” designated.
65-3-71.158. “Dr. Walter Washington Memorial Parkway” designated.
65-3-71.159. “Trooper Steve Hood Memorial Highway” designated.
65-3-71.160. “Trooper Steve Gardner Memorial Highway” designated.
65-3-71.161. “Blue Star Highway” designated.
65-3-71.162. “Rev. George W. Lee Memorial Highway” designated.
65-3-71.163. “Mickey Gene Johnson Memorial Highway” designated.
65-3-71.164. “Mississippi Gold Star Memorial Highway” designated.
65-3-71.165. “Military Order of the Purple Heart Highway” designated.
65-3-71.166. “Martin Luther King, Jr. Memorial Highway” designated.
65-3-71.167. “Sgt. Todd Partridge Memorial Highway” designated.
65-3-71.168. “Jefferson ‘Carl’ Monk, Jr. Memorial Highway” designated.
65-3-71.169. “Chaplin Clark Polling Memorial Highway” designated.
65-3-71.170. “Roger D. Moore Memorial Highway” designated.
65-3-71.171. “Willye B. White Memorial Highway” designated.
65-3-71.172. “‘Mr. & Mrs. E.H. Sumner Memorial Highway” designated.
65-3-71.173. “A.C. Hillman Highway” designated.
65-3-71.174. “William S. ‘Seth’ Ricketts Memorial Highway” designated.
65-3-71.175. “Coach Sim Cooley Memorial Highway” designated.
65-3-71.176. “Walter W. Jack, Jr., Memorial Highway” designated.
65-3-71.177. “Jack Cristil Highway” designated.
65-3-71.178. “Coach Ben B. James Sr. Memorial Highway” designated.
65-3-71.179. “Carl J. ‘Jack’ Gordon, Jr. Memorial Highway” designated.
65-3-71.180. “Martin Luther King, Jr., Memorial Highway” designated.
65-3-71.181. “William R. ‘Bill’ Minor Memorial Highway” designated.
65-3-71.182. “Kevser Ermin Memorial Highway” designated.
65-3-71.183. “John Wayne Haddock Memorial Interchange” designated.
65-3-71.184. “Anse Dees Memorial Bypass” designated.
65-3-71.185. “F. Wade Lambert Memorial Highway” designated.
65-3-71.186. “Robert L. Johnson Blues Memorial Highway” designated.
65-3-71.187. “Richard Alexandra ‘Dickie’ Ware Memorial Highway” designated.
65-3-71.188. “SFC Severin West Summers III Memorial Highway” designated.
65-3-71.189. “Military Order of the Purple Heart Highway” designated.
65-3-71.190. “Robert L. ‘Bob’ Crook Memorial Highway” designated.
65-3-71.191. “Mississippi Heritage Highway” designated.
65-3-71.192. “Veterans’ Memorial Highway” designated.

§ 65-3-38. Designation of scenic route in Sardis Lake area.

(1) The following segments of highways located in the State of Mississippi are hereby designated as a scenic route:

Mississippi Highway 315 beginning at a point of intersection with Interstate 55, running east to the intersection with Sardis Dam Road, thence southerly along the route of the Sardis Dam then to its intersection with Mississippi Highway 35, thence running west along the route of Mississippi Highway 35 to its intersection with Mississippi Highway 6, thence in an easterly direction to its intersection with Interstate 55.

(2)(a) The State Highway Department may plan and erect suitable signs and markers along such route and along the interstate approaches to the area. Such signs shall be attractive and designed to invite and encourage tourism, recreation and camping in the area.

(b) The State Highway Department may establish and maintain rest and observation areas along the designated route and may invite the participation of and cooperate with any state, county or municipal agency to assist in the promotion and development of the scenic route hereinabove designated.

SOURCES: Laws, 1976, ch. 309, §§ 1, 2, eff from and after passage (approved March 9, 1976).

Cross References — For additional designation of scenic highways, see §§ 65-3-35 and 65-3-36.

§ 65-3-38.1. Certain restrictions on designations for highways, roads, streets and bridges.

(1) No highway, road, street or bridge on the designated state highway system may be named after any person elected by the people to any public office in this state during the term of such person's office or for a period of ten (10) years after such person no longer served in any such office.

(2) No legislation shall be enacted by the Legislature naming any highway, road, street or bridge on the designated state highway system after any person unless the governing body of each county and municipality where the highway, road, street or bridge is located duly adopts a resolution requesting the Legislature to enact such legislation and files a certified copy of such resolution with the Chairman of the Senate or House committee to which such legislation is referred.

SOURCES: Laws, 2002, ch. 556, § 5, eff from and after July 1, 2002.

§ 65-3-39. "The Veterans' Memorial Highway" designated.

(1) U.S. Highway 45 within the State of Mississippi is hereby designated as "The Veterans' Memorial Highway" in honor of and in genuine gratitude and appreciation for the contributions made by veterans of this state in the defense

of and service to this country, excluding, however, that portion from Baldwyn in Lee County to Nettleton in Lee County previously designated as the "David Williams Robins Highway" by Chapter 300, Laws of 1954. The State Highway Commission is hereby authorized and empowered to allow the erection on the highway rights-of-way of suitable monuments and markers as prescribed and provided by the veterans' organizations within the state.

(2) Upon the completion of the corridor through the eastern part of the state from Tennessee to the Gulf of Mexico as authorized by Chapter 484, Laws of 1972, said new corridor shall be designated as "The Veterans' Memorial Highway" in appreciation for the services of veterans to this state and the State Highway Commission is hereby authorized and empowered to allow the erection on the highway rights-of-way suitable monuments and markers as prescribed and provided by the veterans' organizations within the state and the designation of old U. S. Highway 45 as "the Veterans' Memorial Highway" shall be abandoned.

SOURCES: Laws, 1973, ch. 349, §§ 1, 2, eff from and after passage (approved March 23, 1973).

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 65-3-40. Portion of Highway 35 in Leake County designated "Veterans' Memorial Highway".

(1) That portion of Mississippi Highway 35 in Leake County beginning at the Scott County Line and extending northerly to the south corporate limits of the City of Carthage is designated and shall be known as the "Veterans' Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching such highway.

SOURCES: Laws, 2000, ch. 353, § 1, eff from and after passage (approved Apr. 16, 2000.)

§ 65-3-41. "Frank Louis Hawkins Memorial Highway" designated.

That portion of Mississippi Highway 430, being situated between the Village of Black Hawk, Mississippi, and the Town of Vaiden, Mississippi, shall be designated and henceforth known as the Frank Louis Hawkins Memorial Highway.

The State Highway Department is hereby directed to erect appropriate signs along and approaching said highway and further to erect a suitable memorial marker between the Town of Vaiden, Mississippi, and the Black Hawk community, at a site to be chosen with the approval of the survivors and family of Frank Louis Hawkins.

SOURCES: Laws, 1975, ch. 324, §§ 1, 2, eff from and after passage (approved March 5, 1975).

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation.

§ 65-3-43. "Elvis Aaron Presley Memorial Highway" designated.

(1) That portion of United States Highway 78 being situated between the southern boundary of the state of Tennessee and the western boundary of the state of Alabama shall be designated and henceforth known as the Elvis Aaron Presley Memorial Highway.

(2) The Mississippi State Highway Department is hereby directed to erect appropriate signs along and approaching said highway and, further, to erect a suitable memorial marker between the City of Tupelo, Mississippi, and the Town of Mineral Wells, Mississippi, at a site to be chosen with the approval of the family of Elvis Aaron Presley.

SOURCES: Laws, 1978, ch. 302, §§ 1, 2, eff from and after passage (approved February 8, 1978).

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation.

§ 65-3-45. "Walter L. Nixon, Sr., Memorial Bridge" designated.

(1) The bridge which spans the Back Bay of Biloxi on Interstate Highway 110 between Biloxi, Mississippi, and D'Iberville, Mississippi, known as the "Back Bay Bridge," shall be designated and henceforth known as the Walter L. Nixon, Sr., Memorial Bridge.

(2) The Mississippi State Highway Department is hereby authorized to erect a suitable memorial marker between the cites of Biloxi, Mississippi, and D'Iberville, Mississippi, at a site to be chosen with the approval of the survivors and family of Walter L. Nixon, Sr.

SOURCES: Laws, 1978, ch. 323, §§ 1, 2, eff from and after passage (approved March 2, 1978).

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation.

§ 65-3-47. Designation of scenic route in Enid Lake area.

(1) The following segments of roads located in the State of Mississippi are hereby designated as a scenic route:

The access road beginning at a point of intersection with Interstate 55 at Exit 58 and running east to the intersection with Enid Dam Road, thence southerly along the route of the Enid Dam Road then to its intersection with U.S. Highway 51, thence running southerly along the route of U.S. Highway 51 to its intersection with Mississippi Highway 32, thence in an easterly direction to its intersection with Interstate 55 at Exit 57.

(2)(a) The State Highway Department may plan and erect suitable signs and markers along such route and along the interstate approaches to the area. Such signs shall be attractive and designed to invite and encourage tourism, recreation and camping in the area.

(b) The State Highway Department may establish and maintain rest and observation areas along the designated route and may invite the participation of and cooperate with any state, county or municipal agency to assist in the promotion and development of the scenic route hereinabove designated.

SOURCES: Laws, 1978, ch. 306, §§ 1, 2, eff from and after July 1, 1978.

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation.

§ 65-3-49. Designation of scenic route in Arkabutla Lake area.

(1) The following segments of highways located in the state of Mississippi are hereby designated as a scenic route:

The public road beginning at Interstate Highway 55 adjacent to the City of Coldwater, Mississippi, and thence along the Coldwater-Arkabutla Road in a Westerly direction, and thence turning in a generally Northerly direction from said road to and along a public road which crosses the Dam area of Arkabutla Lake, thence proceeding on the North side of such Dam area in a Westerly direction, thence proceeding in a Northerly direction to the community of Eudora and connecting with State Highway 304 and thence running in an Easterly direction along State Highway No. 304 through the City of Hernando to Interstate Highway 55.

(2)(a) The State Highway Department may plan and erect suitable signs and markers along such route and along the interstate approaches to the area. Such signs shall be attractive and designed to invite and encourage tourism, recreation and camping in the area.

(b) The State Highway Department may establish and maintain rest and observation areas along the designated route and may invite the participation of and cooperate with any state, county or municipal agency to assist in the promotion and development of the scenic route hereinabove designated.

SOURCES: Laws, 1978, ch. 307, § 1, eff from and after July 1, 1978.

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation.

§ 65-3-51. "Donnie Gene Kelley Memorial Bridge" designated.

The State Highway Commission is hereby directed to designate the bridge located at the interchange of U.S. Highway 61 and U.S. Highway 82 in Leland, Mississippi, as the "Donnie Gene Kelley Memorial Bridge" and to place appropriate markers at each end of the bridge.

SOURCES: Laws, 1979, ch. 325, eff from and after passage (approved March 1, 1979).

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 65-3-53. "Perry Davis Memorial Highway" designated.

(1) That portion of State Highway 481 from State Highway 43 southeast at Pisgah in Rankin County, Mississippi, to United States Highway 80 in Morton, Scott County, Mississippi, shall be designated and henceforth known as the Perry Davis Memorial Highway.

(2) The Mississippi State Highway Department is hereby directed to erect appropriate signs along and approaching said highway and, further, to erect a suitable memorial marker between Pisgah, Mississippi, and the Town of Morton, Mississippi, at a site to be chosen with the approval of the family of Perry Davis.

SOURCES: Laws, 1979, ch. 328, eff from and after passage (approved March 1, 1979).

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation.

§ 65-3-55. "Hospitality Highway" designated.

(1) That portion of State Highway 607 from the junction with Interstate Highway 10 to the junction with U.S. Highway 90, and that portion of U.S. Highway 90 from the junction with State Highway 607 to the western

boundary of the State of Alabama shall be designated and henceforth known as the "Hospitality Highway."

(2) The Mississippi State Highway Department is hereby directed to erect appropriate signs along and approaching the Hospitality Highway, as described in this section.

SOURCES: Laws, 1979, ch. 329, eff from and after passage (approved March 1, 1979).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-57. "William G. Walter Memorial Highway" designated.

(1) That portion of the Mississippi Highway No. 13 running from the intersection of such highway with Mississippi Highway No. 16 in Leake County, Mississippi, and continuing southerly through the counties of Leake, Scott, Rankin and Simpson shall be designated and henceforth known as the William G. Walter Memorial Highway.

(2) The Mississippi State Highway Department is hereby directed to erect appropriate signs along and approaching such highway.

SOURCES: Laws, 1980, ch. 331, eff from and after passage (approved April 14, 1980).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-58. "Osborne Bell Memorial Highway" designated.

(1) That portion of Mississippi Highway 309 in Marshall County, Mississippi, beginning at or near the community of Watson and running southerly for a distance of 9.5 miles until its intersection with Mississippi Highway 4, is hereby designated and henceforth shall be known as the "Osborne Bell Memorial Highway."

(2) The Mississippi State Highway Department is hereby directed to erect and maintain appropriate signs along and approaching such highway.

SOURCES: Laws, 1988, ch. 305, § 1, eff from and after passage (approved March 7, 1988).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-59. "William Faulkner Memorial Highway" designated.

(1) That portion of Mississippi Highway 7 from the point of intersection with Mississippi Highway 315 to the point of intersection with the Tennessee state line shall be designated and henceforth known as the "William Faulkner Memorial Highway."

(2) The Mississippi State Highway Department is hereby directed to erect appropriate signs along and approaching the William Faulkner Memorial Highway.

SOURCES: Laws, 1981, ch. 393, § 1, eff from and after July 1, 1981.

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-61. "James Duncan Arrington Memorial Highway" designated.

(1) Mississippi Highway 588, situated between Collins, Mississippi, and Ellisville, Mississippi, shall be designated and henceforth known as the James Duncan Arrington Memorial Highway.

(2) The Mississippi State Highway Department is hereby authorized and directed to erect appropriate signs along and approaching said highway and, further, to erect a suitable memorial marker between Collins, Mississippi, and Ellisville, Mississippi.

SOURCES: Laws, 1981, ch. 437, § 1, eff from and after passage (approved March 30, 1981).

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation.

§ 65-3-62. "James O. Eastland Memorial Highway" designated.

(1) Interstate Highway 55, with the exception of that portion of Interstate Highway 55 which is within Panola County, is hereby designated and henceforth shall be known as the "James O. Eastland Memorial Highway."

(2) The Mississippi State Highway Department is hereby authorized and directed to erect not less than four (4) granite memorials at appropriate locations along and approaching the "James O. Eastland Memorial Highway," and such other signs as the department shall deem suitable.

SOURCES: Laws, 1989, ch. 318, § 1, eff from and after passage (approved March 2, 1989).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-63. "Hugh White Memorial Highway" designated.

(1) That portion of the Mississippi Highway No. 13 running from the City of Columbia in Marion County to its intersection with the Simpson County line shall be designated and henceforth known as the Hugh White Memorial Highway.

(2) The Mississippi State Highway Department is hereby directed to erect appropriate signs along and approaching such highway.

SOURCES: Laws, 1981, ch. 438, § 1, eff from and after passage (approved March 30, 1981).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-64. Designation of scenic route; Mississippi Highway 5 between U.S. Highway 78 and 72.

(1) The following segment of highway located in the State of Mississippi is hereby designated as a scenic route:

That portion of Mississippi Highway 5 between United States Highway 78 and United States Highway 72.

(2)(a) The State Highway Department may plan and erect suitable signs and markers along such route and along approaches to the area. Such signs shall be attractive and designed to invite and encourage tourism, recreation and camping in the area.

(b) The State Highway Department may establish and maintain rest and observation areas along the designated route and may invite the participation of and cooperate with any state, county or municipal agency to assist in the promotion and development of the scenic route hereinabove designated.

SOURCES: Laws, 1989, ch. 316, § 1, eff from and after passage (approved March 2, 1989).

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation.

§ 65-3-65. "Henry Clarence Strider Memorial Highway" designated.

(1) That portion of Mississippi Highway No. 32 running between the municipalities of Webb and Charleston in Tallahatchie County shall be

designated and henceforth known as the Henry Clarence Strider Memorial Highway.

(2) The Mississippi State Highway Department is hereby directed to erect appropriate signs along and approaching such highway.

SOURCES: Laws, 1981, ch. 364, § 1, eff from and after July 1, 1981.

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-66. "John C. Stennis Highway" designated.

(1) That portion of Mississippi Highway 39 from its intersection with Mississippi Highway 45 in Lauderdale County as it extends north to the intersection with Mississippi Highway 16 in DeKalb, Mississippi, is hereby designated and henceforth shall be known as the "John C. Stennis Highway."

(2) The Mississippi State Highway Department is hereby authorized and directed to erect not less than two (2) granite memorials at appropriate locations along and approaching the highway, and such other signs as the department shall deem suitable.

SOURCES: Laws, 1989, ch. 309, § 1, eff from and after passage (approved March 2, 1989).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-67. "John Bell Williams Memorial Highway" designated.

(1) That portion of Mississippi Highway 18, being situated between the city of Jackson, Mississippi, and the town of Raymond, Mississippi, shall be designated and henceforth known as the "John Bell Williams Memorial Highway."

(2) The Mississippi State Highway Department is hereby directed to erect appropriate signs along and approaching said highway and further to erect a suitable memorial marker between the city of Jackson and the town of Raymond, at a site to be chosen with the approval of the survivors and family of John Bell Williams.

SOURCES: Laws, 1983, ch. 533, eff from and after passage (approved April 15, 1983).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-68. "George Walter Holloway Memorial Highway" designated.

(1) That portion of Mississippi Highway 42 lying in Jefferson Davis County shall be designated and henceforth shall be known as the "George Walter Holloway Memorial Highway."

(2) The Mississippi State Highway Department is hereby directed to erect appropriate signs along Mississippi Highway 42 at the entrances to Jefferson Davis County and at the exits from the town of Prentiss.

SOURCES: Laws, 1984, ch. 356, eff from and after passage (approved April 16, 1984).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-69. "Jake W. Lindsey Highway" designated.

(1) That portion of Mississippi Highway 63 lying in Wayne County shall be designated and henceforth shall be known as the "Jake W. Lindsey Highway."

(2) The Mississippi State Highway Department is hereby directed to erect appropriate signs along Mississippi Highway 63 at the entrances to Wayne County and at the exits from the Town of Waynesboro.

SOURCES: Laws, 1984, ch. 371, eff from and after passage (approved April 16, 1984).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-70. "William Russell Bonds Memorial Bridge" designated.

(1) The bridge which spans the Tennessee-Tombigbee Waterway on U. S. Highway 72 shall be designated and henceforth known as the "William Russell Bonds Memorial Bridge."

(2) The Mississippi State Highway Department is hereby authorized and directed to erect appropriate markers at each end of such bridge.

SOURCES: Laws, 1987, ch. 334, eff from and after passage (approved March 17, 1987).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-71. "Dr. W. C. Simmons Memorial Highway" designated.

(1) That portion of Mississippi Highway 18, which is situated in Jasper County from the corporate limits of the town of Bay Springs to the Smith County line shall be designated and known as the "Dr. W. C. Simmons Memorial Highway."

(2) The Mississippi State Highway Department is hereby directed to erect appropriate signs identifying such memorial highway.

SOURCES: Laws, 1987, ch. 339, eff from and after passage (approved March 17, 1987).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-71.1. "Cliff Finch Memorial Highway" designated.

(1) That portion of Interstate Highway 55 which is within Panola County is hereby designated and henceforth shall be known as the "Cliff Finch Memorial Highway."

(2) The Mississippi State Highway Department is hereby directed to erect appropriate signs at rest areas along such highway in Panola County.

SOURCES: Laws, 1987, ch. 376, eff from and after passage (approved March 19, 1987).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-71.2. "Howard Dyer Memorial Highway" designated.

(1) That portion of Mississippi Highway 82, being situated between the City of Greenville, Mississippi, and the City of Leland, Mississippi, shall be designated and henceforth known as the "Howard Dyer Memorial Highway."

(2) The Mississippi State Highway Department is hereby directed to erect appropriate signs along and approaching such highway and further to erect a suitable memorial marker between the City of Greenville and the City of Leland.

SOURCES: Laws, 1987, ch. 404, eff from and after passage (approved March 20, 1987).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-71.3. "The Singing River" designated.

(1) The crossing of U.S. Highway 90 over the East Pascagoula River shall be designated and henceforth known as "The Singing River."

(2) The State Highway Department is hereby authorized to erect appropriate markers at each end of the bridge.

SOURCES: Laws, 1987, ch. 408, eff from and after July 1, 1987.

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-71.4. "George M. Yarbrough Highway" designated.

(1) That portion of highway added to the state highway system in Chapter 298, General Laws of 1954, more particularly described as beginning on U.S. 78 at or near Red Banks, thence through the business district of Red Banks, and ending on U.S. 78, shall be designated and henceforth known as the George M. Yarbrough Highway.

(2) The Mississippi State Highway Department is hereby directed to erect appropriate signs along and approaching such highway.

SOURCES: Laws, 1987, ch. 410, eff from and after passage (approved March 20, 1987).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-71.5. "John E. Rankin Memorial Bridge" designated.

(1) The bridge which spans the Tennessee-Tombigbee Waterway on United States Highway 78 at Fulton, Mississippi, shall be designated and henceforth known as the "John E. Rankin Memorial Bridge."

(2) The Mississippi State Highway Department is hereby authorized to place appropriate markers at each end of the bridge.

SOURCES: Laws, 1988, ch. 317, eff from and after July 1, 1988.

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-71.6. "Owen Cooper Memorial Highway" designated.

(1) That portion of U.S. Highway 49 from its intersection with Interstate 220 at Jackson, Mississippi, to the point where it divides into U.S. Highway 49 East and U.S. Highway 49 West in Yazoo County is hereby designated and henceforth shall be known as the "Owen Cooper Memorial Highway."

(2) The Mississippi State Highway Department is hereby directed to erect appropriate signs along and approaching such highway.

SOURCES: Laws, 1988, ch. 360, eff from and after passage (approved April 15, 1988).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-71.7. "Lee C. Seymour, Sr., Memorial Highway" designated.

(1) That portion of Interstate Highway 110 north of the Interstate Highway 110 bridge within the municipal limits of the City of d'Iberville is hereby designated and henceforth shall be known as the "Lee C. Seymour, Sr., Memorial Highway."

(2) The State Highway Department is hereby directed to erect and maintain appropriate signs along and approaching such highway.

SOURCES: Laws, 1988, ch. 450, eff from and after passage (approved April 25, 1988).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-71.8. "John Sharp Williams Memorial Bridge" designated.

Upon completion of construction of the new bridge over the Yazoo River on U. S. Highway 49 West in Yazoo County, Mississippi, between Yazoo City and Louise, such bridge shall be known and shall be designated as the "John Sharp Williams Memorial Bridge," and the State Highway Department shall erect suitable markers along and approaching such bridge to reflect the name thereof.

SOURCES: Laws, 1988, ch. 436, eff from and after passage (approved April 25, 1988).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-71.9. "Guy Williams Memorial Highway" designated.

(1) That portion of Mississippi Highway 32 from Parchman in Sunflower County to the corporate limits of the Town of Webb in Tallahatchie County is hereby designated and henceforth shall be known as the "Guy Williams Memorial Highway."

(2) The Mississippi State Highway Department is hereby directed to erect and maintain appropriate signs along and approaching such highway.

SOURCES: Laws, 1988, ch. 440, eff from and after passage (approved April 25, 1988).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-71.10. Hurricane evacuation routes designated.

The State Highway Commission is hereby directed to have the State Highway Department to erect appropriate signs on and along all highways leading northerly from the Mississippi Gulf Coast designating such highways as hurricane evacuation routes.

SOURCES: Laws, 1990, ch. 366, § 1, eff from and after July 1, 1990.

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation, and whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 65-3-71.11. "Charles H. Griffin Memorial Highway" designated.

(1) Mississippi Highway 18 between the municipalities of Raymond and Port Gibson is hereby designated, and henceforth shall be known as, the "Charles H. Griffin Memorial Highway."

(2) The Mississippi State Highway Department is hereby authorized and directed to erect memorials at appropriate locations along and approaching the designated segment of such highway.

SOURCES: Laws, 1990, ch. 445, § 1, eff from and after passage (approved March 20, 1990).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-71.12. "Bill Harpole Highway" designated.

(1) That portion of Mississippi Highway 12 from its intersection with Mississippi Highway 25 in the City of Starkville to its intersection with U. S.

Highway 82 in Oktibbeha County is hereby designated as the "Bill Harpole Highway."

(2) The State Highway Department is hereby directed to erect appropriate signs on the designated segment of such highway.

SOURCES: Laws, 1990, ch. 487, § 1, eff from and after passage (approved March 27, 1990).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-71.13. "Fred J. Vann Memorial Highway," "Dr. Fayette C. Williams Memorial Highway," and "Bilbo Anders Memorial Drive" designated.

(1) That portion of Mississippi Highway 350 from its intersection with Kendrick Road in Alcorn County extending eastwardly to Mississippi Highway 25 in Tishomingo County is hereby designated the "Fred J. Vann Memorial Highway."

(2) That portion of U.S. Highway 72 within Alcorn County is hereby designated the "Dr. Fayette C. Williams Memorial Highway."

(3) That portion of Mississippi Highway 39 from its intersection with U.S. Interstate Highway 20/59 in Lauderdale County extending northerly to its intersection with Old U.S. Highway 45 to Marion is hereby designated and henceforth shall be known as the "Bilbo Anders Memorial Drive."

(4) The Mississippi State Highway Department is hereby directed to erect and maintain appropriate signs along and approaching such highways.

SOURCES: Laws, 1990, ch. 511, § 1, eff from and after passage (approved April 2, 1990).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-71.14. "Herman Alford Memorial Highway" designated.

(1) That portion of Mississippi Highway 19 from its intersection with Mississippi Highway 15 in the City of Philadelphia which extends in a northerly direction to the corporate limits of such city is hereby designated as the "Herman Alford Memorial Highway."

(2) The State Highway Department is hereby directed to erect appropriate signs on the designated segment of such highway.

SOURCES: Laws, 1990 Ex Sess, ch. 49, § 1, eff from and after passage (approved June 30, 1990).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-71.15. "J.A. (Jim) Morrow Memorial Highway" designated.

(1) That portion of Mississippi Highway 18 located in Rankin County beginning at the corporate limits of the City of Brandon and extending southeasterly to the Smith County line is hereby designated as the "J. A. (Jim) Morrow Memorial Highway."

(2) The Mississippi State Highway Department shall erect and maintain appropriate signs along and approaching such highway.

SOURCES: Laws, 1991, ch. 400, § 1, eff from and after passage (approved March 20, 1991).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-71.16. "Roger B. Latimer Memorial Bridge" designated.

(1) The bridge spanning Horn Lake Creek located within the City of Horn Lake on Mississippi Highway 302 (Goodman Road) approximately one-tenth (1/10) of a mile east of the intersection of that highway with U.S. Highway 51 shall be designated and henceforth known as the "Roger B. Latimer Memorial Bridge."

(2) The State Highway Department is hereby authorized and directed to erect appropriate markers at each end of the bridge.

SOURCES: Laws, 1991, ch. 433 § 1, eff from and after passage (approved March 21, 1991).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-71.17. "Castiglia Interchange" designated.

(1) The Interstate 10 and Highway 49 interchange in Harrison County is hereby designated, and henceforth shall be known as, the "Castiglia Interchange."

(2) The Mississippi State Highway Department is hereby authorized and directed to erect appropriate signs at locations along the interchange.

SOURCES: Laws, 1991, ch. 488 § 1, eff from and after passage (approved March 30, 1991).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-71.18. "Hernando de Soto Commemorative Bridge" designated.

From and after June 18, 1991, the Mississippi River Bridge on U.S. Highway 49 near Lula, Mississippi, from its easternmost point westward to the Arkansas state line, shall be named and designated the "Hernando de Soto Commemorative Bridge" in recognition, observation and commemoration of Spanish Explorer Hernando de Soto who discovered the Mississippi River on May 8, 1541, and subsequently crossed the river on June 18, 1541.

SOURCES: Laws, 1991, ch. 488 § 2, eff from and after passage (approved March 30, 1991).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-71.19. "Billy Cooper Highway" designated.

(1) That segment of Mississippi Highway 57 in Greene County beginning at its intersection with Mississippi Highway 63 near Leakesville and extending northerly to the corporate limits of State Line is designated and shall be known as the "Billy Cooper Highway."

(2) The Mississippi State Highway Department shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 1991, ch. 548, § 1, eff from and after passage (approved April 12, 1991).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-71.20. Portion of Mississippi Highway 35 designated as scenic highway.

(1) The following segment of highway located in Panola, Tallahatchie, Grenada and Carroll Counties is hereby designated as a scenic highway:

Mississippi Highway 35 beginning at the corporate limits of the City of Batesville and extending southerly to the corporate limits of the Town of Vaiden.

(2)(a) The State Highway Department may plan and erect suitable signs and markers along the above described segment of highway and along the interstate approaches to such highway. Such signs shall be attractive and designed to invite and encourage tourism, recreation and camping in the area.

(b) The State Highway Department may establish and maintain rest and observation areas along the designated segment of highway and may invite the participation of and cooperate with any state, county or municipal agency to assist in the promotion and development of the scenic highway hereinabove designated.

SOURCES: Laws, 1991, ch. 548, § 2, eff from and after passage (approved April 12, 1991).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-71.21. "W. Felder Dearman Memorial Highway" designated.

(1) That portion of Mississippi Highway 22 which is between the municipalities of Edwards and Canton in Hinds and Madison Counties is hereby designated, and henceforth shall be known as, the "W. Felder Dearman Memorial Highway."

(2) The Mississippi State Highway Department is hereby authorized and directed to erect memorials at appropriate locations along and approaching the highway.

SOURCES: Laws, 1992, ch. 308 § 1, eff from and after passage (approved April 14, 1992).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-71.22. "Tammy Wynette Highway" designated.

(1) That portion of Mississippi Highway 23 in Itawamba County located between the Town of Tremont and the Alabama State Line is hereby designated the "Tammy Wynette Highway."

(2) The State Highway Department shall erect and maintain appropriate signs along and approaching such highway.

SOURCES: Laws, 1992, ch. 372, § 1, eff from and after passage (approved April 21, 1992).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-71.23. "Jerry Clower Highway" designated.

(1) That portion of Mississippi Highway 24 between the cities of Liberty and McComb is hereby designated the "Jerry Clower Highway."

(2) The State Highway Department is hereby directed to erect appropriate signs along and approaching such highway.

SOURCES: Laws, 1992, ch. 372, § 2, eff from and after passage (approved April 21, 1992).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-71.24. Mississippi Highways 63 and 57 designated wildflower routes.

Mississippi Highways 63 and 57 are designated as wildflower routes, and the State Highway Department shall take the necessary measures in maintaining rights-of-way along such highways to encourage the growth of native wildflowers. Such measures shall include, but not be limited to, (a) refraining from the use of herbicides, (b) planting native wildflowers, and (c) when mowing becomes necessary, mowing selectively in order to preserve wildflowers during their growing seasons.

SOURCES: Laws, 1992, ch. 411, § 1, eff from and after passage (approved April 27, 1992).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-71.25. "Vietnam Veterans Memorial Bridge" designated.

(1) That bridge on Mississippi Highway 63 in Jackson County that spans the Escatawpa River is designated and shall be known as the "Vietnam Veterans Memorial Bridge."

(2) The Transportation Department shall erect and maintain an appropriate plaque at each end of the bridge, and suitable markers along and approaching the bridge, reflecting its name.

SOURCES: Laws, 1993, ch. 318, § 1, eff from and after passage (approved March 11, 1993).

§ 65-3-71.26. "Robert L. Hollimon Memorial Highway" designated.

(1) That portion of Mississippi Highway 492 between the Town of Union in Newton County and Mississippi Highway 19 in Neshoba County is hereby designated the "Robert L. Hollimon Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching such highway.

SOURCES: Laws, 1993, ch. 340, § 1, eff from and after passage (approved March 15, 1993).

§ 65-3-71.27. "Naaman Bryanyan Memorial Highway" designated.

(1) That portion of Mississippi Highway 9 in Union County from its intersection with Mississippi Highway 348 to its intersection with Mississippi Highway 30 is designated and shall be known as the "Naaman Bryanyan Memorial Highway."

(2) The Department of Transportation shall erect and maintain appropriate signs approaching and along such highway.

SOURCES: Laws, 1993, ch. 428, § 1, eff from and after passage (approved March 18, 1993).

§ 65-3-71.28. "Larkin I. Smith Memorial Highway" designated.

(1) That portion of Mississippi Highway 53 from its intersection with U.S. Highway 49 in Harrison County as it extends northwesterly through Hancock County to its intersection with Mississippi Highway 26 in Pearl River County is hereby designated and henceforth shall be known as the "Larkin I. Smith Memorial Highway."

(2) The Mississippi Department of Transportation shall erect appropriate signs along and approaching such highway.

SOURCES: Laws, 1993, ch. 447, § 1, eff from and after passage (approved March 25, 1993).

§ 65-3-71.29. "Charley Pride Highway" designated.

(1) That portion of Mississippi Highway 3 located between U.S. Highway 61 in DeSoto County and the Town of Tutwiler in Tallahatchie County is hereby designated the "Charley Pride Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching such highway.

SOURCES: Laws, 1993, ch. 454, § 1, eff from and after passage (approved March 25, 1993).

§ 65-3-71.30. "George D. 'Danny' Nash, Jr., Memorial Highway" designated.

(1) That portion of U. S. Highway 84 in Franklin County, Mississippi, beginning four (4) miles west of its intersection with U. S. Highway 98 and extending to a point six (6) miles west of the intersection of U. S. Highway 84 and U. S. Highway 98 shall be known and designated as the "George D. 'Danny' Nash, Jr., Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching such highway.

SOURCES: Laws, 1994, ch. 360, § 1, eff from and after July 1, 1994.

§ 65-3-71.31. "Pat Patterson Memorial Highway" designated.

(1) That portion of Mississippi Highway 25 within the corporate limits of the City of Aberdeen, beginning at the intersection of Mississippi Highway 25 and Poplar Street and extending to the Tennessee-Tombigbee Waterway Bridge, is designated and shall be known as the "Pat Patterson Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching such highway.

SOURCES: Laws, 1995, ch. 316, § 1, eff from and after passage (approved March 9, 1995).

§ 65-3-71.32. "Bobby Runnels Memorial Drive" designated.

(1) That portion of Mississippi Highway 42 in the City of Petal, Mississippi, beginning at the Norfolk Southern Railroad and extending approximately one-half (½) mile to its intersection with Main Street is designated and shall be known as "Bobby Runnels Memorial Drive."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs on and along such highway.

SOURCES: Laws, 1995, ch. 334, § 1, eff from and after passage (approved March 10, 1995).

§ 65-3-71.33. "Veterans Memorial Drive" designated.

(1) That section of Mississippi Highway 35 bypass from the Kosciusko city limits south to Mississippi Highway 12 east is designated and shall be known as "Veterans Memorial Drive."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the section of highway described in subsection (1) of this section.

SOURCES: Laws, 1995, ch. 351, § 1, eff from and after passage (approved March 14, 1995).

§ 65-3-71.34. "Billy M. Langham Memorial Highway" designated.

(1) That portion of U.S. Highway 49 in Collins, Mississippi, beginning at a point eight-tenths (.8) of a mile south of the intersection of U.S. Highway 49 and U.S. Highway 84 and extending south on U.S. Highway 49 for two (2) miles shall be known and designated as the "Billy M. Langham Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching such highway.

SOURCES: Laws, 1995, ch. 390, § 1, eff from and after passage (approved March 15, 1995).

§ 65-3-71.35. "State Trooper Bobby 'Bubba' Wells Memorial Highway" designated.

(1) That portion of Interstate Highway 55 beginning at mile marker 277 and extending northerly to the Mississippi/Tennessee state line is designated and shall be known as the "State Trooper Bobby 'Bubba' Wells Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching such highway.

SOURCES: Laws, 1996, ch. 331, § 1; Laws, 2007, ch. 545, § 2, eff from and after passage (approved Apr. 18, 2007.)

Amendment Notes — The 2007 amendment inserted "State Trooper" following "shall be known as" in (1).

§ 65-3-71.36. "Norton Haas Memorial Highway" designated.

(1) That portion of Mississippi Highway 43/603 in Hancock County beginning at United States Highway 90 and extending northerly to its intersection with Interstate Highway 10 is designated and shall be known as the "Norton Haas Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs on and along that portion of Mississippi Highway 43/603 described in subsection (1) of this section.

SOURCES: Laws, 1996, ch. 344, § 1, eff from and after passage (approved March 17, 1996).

§ 65-3-71.37. "Rayford Patrick Memorial Highway" designated.

(1) That portion of Mississippi Highway 305 in Tate County from its intersection with Mississippi 4 to the Bett Road turnoff shall be known as the "Rayford Patrick Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching such highway.

SOURCES: Laws, 1996, ch. 347, § 1, eff from and after July 1, 1996.

§ 65-3-71.38. "David Bruce Ladner Memorial Highway" designated.

(1) That portion of U.S. Highway 49 in Lyman, Mississippi, beginning at the intersection of U.S. Highway 49 and Mississippi Highway 53 and extending north on U.S. Highway 49 for two (2) miles shall be known and designated as the "David Bruce Ladner Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching such highway.

SOURCES: Laws, 1996, ch. 361, § 1, eff from and after passage (approved March 18, 1996).

§ 65-3-71.39. "Bishop Charles Harrison Mason Memorial Highway" designated.

(1) That portion of Mississippi Highway 17 in Holmes County beginning at its intersection with I-55 and extending northerly to Lexington, Mississippi, shall be known and designated as the "Bishop Charles Harrison Mason Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs on and along that portion of Mississippi Highway 17 described in subsection (1) of this section.

SOURCES: Laws, 1997, ch. 317 § 1, eff from and after passage (approved March 12, 1997).

§ 65-3-71.40. "Wade Guice Memorial Highway" designated.

(1) That portion of Mississippi Highway 15 in Harrison County beginning at Interstate Highway 110 and extending northerly to its intersection with Mississippi Highway 26 is designated and shall be known as the "Wade Guice Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs on and along that portion of Mississippi Highway 15 described in subsection (1) of this section.

SOURCES: Laws, 1997, ch. 461, § 1, eff from and after passage (approved March 26, 1997).

§ 65-3-71.41. "Veterans Memorial Drive" designated.

(1) That portion of U. S. Highway 11 in the City of Hattiesburg beginning at its intersection with South 28th Avenue Extension and proceeding south-

westerly to where U. S. Highway 11 intersects with Interstate Highway 59 is designated and shall be known as "Veterans Memorial Drive."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs on and along that portion of U. S. Highway 11 described in subsection (1) of this section.

SOURCES: Laws, 1997, ch. 461, § 2, eff from and after passage (approved March 26, 1997).

§ 65-3-71.42. "Arthur Winstead Memorial Highway" designated.

(1) That portion of Mississippi Highway 21 in Neshoba County from its intersection with Mississippi 15 and Mississippi 19 northeasterly to the Neshoba County line shall be known as the "Arthur Winstead Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching that portion of Mississippi Highway 21 described in subsection (1) of this section.

SOURCES: Laws, 1997, ch. 461, § 3, eff from and after passage (approved March 26, 1997).

§ 65-3-71.43. "William Jerome Huskey Memorial Highway" designated.

(1) That portion of U. S. Highway 278 in Monroe County beginning at Amory and extending southeasterly to the Mississippi/Alabama state line is designated and shall be known as the "William Jerome Huskey Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs on and along that portion of U. S. Highway 278 described in subsection (1) of this section.

SOURCES: Laws, 1997, ch. 569, § 1, eff from and after passage (approved April 23, 1997).

§ 65-3-71.44. "Major General William 'Bud' Miley Highway" designated.

(1) That portion of Mississippi Highway 389 in the City of Starkville starting at Dr. Martin Luther King, Jr., Drive north to the city limits of Starkville is hereby designated as the "Major General William 'Bud' Miley Highway."

(2) The State Highway Department is hereby directed to erect appropriate signs on the designated segment of such highway.

SOURCES: Laws, 1998, ch. 363, § 1, eff from and after passage (approved March 16, 1998).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-3-71.45. "J.D. Batson Memorial Bridge" designated.

(1) That bridge on Mississippi Highway 26 in Pearl River County that spans the Hobolochitto Creek is designated and shall be known as the "J.D. Batson Memorial Bridge."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate plaques at each end of the bridge, and suitable markers along and approaching the bridge, reflecting its name.

SOURCES: Laws, 1998, ch. 405, § 1, eff from and after passage (approved March 20, 1998).

§ 65-3-71.46. "Bobby McRary Memorial Drive" designated.

(1) That portion of Mississippi Highway 43 in Rankin County beginning at Mississippi Highway 25 and extending easterly to Mississippi Highway 481 shall be known as the "Bobby McRary Memorial Drive."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching such highway.

SOURCES: Laws, 1998, ch. 598, § 1, eff from and after July 1, 1998.

§ 65-3-71.47. "Military Order of the Purple Heart, Department of Mississippi, Memorial Bridge" designated.

(1) That bridge which is to be constructed over Interstate Highway 59 at Lincoln Road in the City of Hattiesburg and Lamar County shall be known and shall be designated as the "Military Order of the Purple Heart, Department of Mississippi, Memorial Bridge."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs approaching each end of the bridge described in subsection (1) of this section reflecting its name, and shall allow officers or official representatives of the Military Order of the Purple Heart, Department of Mississippi, to affix a memorial plaque at some suitable location on the bridge.

SOURCES: Laws, 1999, ch. 491, § 1, eff from and after passage (approved Mar. 30, 1999.)

§ 65-3-71.48. "Veterans Memorial Highway" designated.

(1) That portion of U.S. Highway 61 located in Adams County beginning at the corporate limits of the City of Natchez and extending northerly to the

community of Washington, a distance of approximately three and two-tenths (3.2) miles, is hereby designated as "Veterans Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway designated in subsection (1) of this section.

SOURCES: Laws, 1999, ch. 491, § 2, eff from and after passage (approved Mar. 30, 1999.)

§ 65-3-71.49. "John McPherson Highway" designated.

(1) That portion of U.S. Highway 82 beginning at the Carroll County line and extending easterly to the City of Winona shall be known as the "John McPherson Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching that portion of U.S. Highway 82 described in subsection (1) of this section.

SOURCES: Laws, 1999, ch. 531, § 5, eff from and after passage (approved Apr. 16, 1999.)

§ 65-3-71.50. "Dr. Martin Luther King, Jr., Boulevard" designated.

(1) That portion of U.S. Highway 82 that bypasses the City of Winona shall be known as the "Dr. Martin Luther King, Jr., Boulevard."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching that portion of U.S. Highway 82 described in subsection (1) of this section.

SOURCES: Laws, 1999, ch. 531, § 6; Laws, 2000, ch. 338, § 1, eff from and after July 1, 2000.

§ 65-3-71.51. "George Harris, Sr., Memorial Highway" designated.

(1) That portion of U.S. Highway 82 beginning at the eastern city limits of the City of Winona and extending easterly to the Montgomery/Webster County line, except for the portion within the corporate limits of the Town of Kilmichael, shall be known as the "George Harris, Sr., Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching that portion of U.S. Highway 82 described in subsection (1) of this section.

SOURCES: Laws, 2000, ch. 338, § 2; Laws, 2009, ch. 304, § 2, eff from and after July 1, 2009.

Editor's Note — Laws, 2000, ch. 574, § 10, also enacted a new § 65-3-71.51. At the direction of codification counsel, the section enacted by ch. 574 has been codified as new § 65-3-71.58.

Amendment Notes — The 2009 amendment inserted "except for the portion within the corporate limits of the Town of Kilmichael."

§ 65-3-71.52. Major General James W. Ball Memorial Highway.

(1) That portion of Mississippi Highway 35 in Marion County, Mississippi, beginning at the Mississippi/Louisiana state line and extending to Foxworth shall be known and designated as the "Major General James W. Ball Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching such highway.

SOURCES: Laws, 2000, ch. 374, § 1, eff from and after July 1, 2000.

§ 65-3-71.53. "Delvru John Anthony Minor Memorial Highway" designated.

(1) That portion of U.S. Highway 84 in Adams County from its intersection with U.S. Highway 61 in Washington, Mississippi, and extending in an easterly direction to the point at which State Park Road meets U.S. Highway 84 shall be known as the "Delvru John Anthony Minor Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching such highway.

SOURCES: Laws, 2000, ch. 400, § 1, eff from and after July 1, 2000.

§ 65-3-71.54. "E.C. Gable Memorial Bridge" designated.

(1) That bridge on Mississippi Highway 537 in Jones County that spans Reedy Creek that is located approximately two and one-tenths (2.1) miles north of Fifth Avenue in Laurel, is designated and shall be known as the "E.C. Gable Memorial Bridge."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate plaques at each end of the bridge, and suitable marker along and approaching the bridge, reflecting its name.

SOURCES: Laws, 2000, ch. 404, § 1, eff from and after passage (approved Apr. 17, 2000.)

§ 65-3-71.55. "C.F. 'Pappy' Franklin Memorial Highway" designated.

(1) That portion of Mississippi Highway 7 beginning at the corporate limits of the City of Coffeeville and extending southerly to the Yalabousha County line shall be known as the "C.F. 'Pappy' Franklin Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching that portion of Mississippi Highway 7 described in subsection (1) of this section.

SOURCES: Laws, 2000, ch. 445, § 1, eff from and after passage (approved April 18, 2000).

§ 65-3-71.56. "Joe Clay-John Austin Hatcher Memorial Highway" designated.

(1) That portion of Mississippi Highway 490 in Winston County beginning at the Noxapater city limits and extending easterly to its intersection with Mississippi Highway 397 is designated and shall be known as the "Joe Clay-John Austin Hatcher Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs at the eastern city limits of the City of Noxapater and at the intersection of Mississippi Highway 490 and Mississippi Highway 397 indicating the name of the highway segment described in subsection (1) of this section.

SOURCES: Laws, 2000, ch. 572, § 1, eff from and after July 1, 2000.

§ 65-3-71.57. "31st Infantry Division Memorial Highway" designated.

(1) That portion of U.S. Interstate 20 within the State of Mississippi shall be known as the "31st Infantry Division Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching such highway.

SOURCES: Laws, 2000, ch. 572, § 2; Laws, 2001, ch. 606, § 2, eff from and after July 1, 2001.

§ 65-3-71.58. "Hershal L. Grady Memorial Highway".

(1) Mississippi 908, a route providing direct access from the interchange at I-55 at or near Summit to Southwest Community College, is designated and shall be known as the "Hershal L. Grady Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching such highway.

SOURCES: Laws, 2000, ch. 574, § 10, eff from and after passage (approved May 20, 2000.)

Editor's Note — This section was enacted by Laws, 2000, ch. 574, § 10, and was assigned the Code section number 65-3-71.51. However, Laws, 2000, ch. 338, § 2, had previously enacted a new § 65-3-71.51. At the direction of codification counsel, the section enacted by ch. 574 has been codified as new § 65-3-71.58.

§ 65-3-71.59. "Bruce Wayne Evans Memorial Highway" designated.

(1) That segment of Mississippi Highway 613 in Jackson County beginning at its intersection with Big Point Road and extending northerly approx-

imately 11.3 miles to the Jackson/George County line is designated and shall be known as the "Bruce Wayne Evans Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2001, ch. 366, § 1, eff from and after July 1, 2001.

§ 65-3-71.60. "Waverly Wray Memorial Highway" designated.

(1) That portion of Mississippi Highway 35 in Panola County beginning with its intersection with Mississippi Highway 6 and extending southerly to the Tallahatchie County line shall be known as the "Waverly Wray Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching that portion of Mississippi Highway 35 described in subsection (1) of this section.

SOURCES: Laws, 2001, ch. 430, § 1, eff from and after July 1, 2001.

§ 65-3-71.61. "Mortimer Barry Memorial Highway" designated.

(1) That portion of U.S. Highway 51 within the City of Winona known as South Applegate and that portion of U.S. Highway 51 south of the city limits of Winona extending from the city limits of the City of Winona for a distance of two (2) miles is designated and shall be known as the "Mortimer Barry Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching such highway.

SOURCES: Laws, 2001, ch. 460, § 1, eff from and after July 1, 2001.

§ 65-3-71.62. "Jo Doss Miller Memorial Drive" designated.

(1) That portion of Mississippi Highway 8 in Monroe County, beginning at the intersection of Mississippi Highway 8 and U.S. Highway 45 and extending to the intersection of Mississippi Highway 8 and Oakland Drive, shall be known as "Jo Doss Miller Memorial Drive."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2001, ch. 493, § 1, eff from and after passage (approved Mar. 24, 2001.)

§ 65-3-71.63. "Military Order of the Purple Heart Drive" designated.

(1) That portion of Mississippi Highway 25 beginning at the Hinds/ Rankin County line and extending northeasterly to U.S. Highway 82 in Oktibbeha County shall be known and designated as "Military Order of the Purple Heart Drive."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching such highway.

SOURCES: Laws, 2001, ch. 606, § 1; Laws, 2008, ch. 348, § 1, eff from and after passage (approved Mar. 26, 2008.)

Amendment Notes — The 2008 amendment substituted "U.S. Highway 82 in Oktibbeha County" for "the Leake/Winston County line" in (1).

§ 65-3-71.64. "Sheriff E.C. Mullins Memorial Highway" designated.

(1) That segment of New U.S. Highway 49 in the City of Mendenhall, Simpson County, Mississippi, beginning at its intersection with Mississippi Highway 13 and extending southerly to its intersection with Old U.S. Highway 49 (Jackson Avenue), is designated and shall be known as the "Sheriff E.C. Mullins Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2002, ch. 391, § 1, eff from and after passage (approved Mar. 19, 2002.)

§ 65-3-71.65. Portion of Mississippi 15 in Philadelphia designated as "Veterans' Boulevard."

(1) That segment of the four-lane bypass for Mississippi Highway 15 within the City of Philadelphia, Mississippi, shall be known as "Veterans' Boulevard."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2002, ch. 406, § 1, eff from and after passage (approved Mar. 19, 2002.)

§ 65-3-71.66. Portion of Mississippi 15/25 in Winston County designated as "Veterans' Memorial Drive."

(1) That segment of Mississippi Highway 15/25 in Winston County is designated and shall be known as "Veterans' Memorial Drive."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2002, ch. 417, § 1, eff from and after passage (approved Mar. 19, 2002.)

§ 65-3-71.67. "Corporal James D. Slaton Memorial Highway" designated.

(1) That segment of U.S. Highway 84 in Jones County beginning at the eastern city limits of the City of Laurel and extending easterly to the Jones/Wayne County line is designated and shall be known as the "Corporal James D. Slaton Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2002, ch. 421, § 1, eff from and after passage (approved Mar. 20, 2002.)

§ 65-3-71.68. "Hershel G. Jumper Memorial Highway" designated.

(1) That portion of Mississippi Highway 4 in Prentiss County beginning at the western boundary of the City of Booneville and extending westerly to the Prentiss/Tippah county line, a distance of approximately six (6) miles, is designated and shall be known as the "Hershel G. Jumper Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the highway described in subsection (1) of this section.

SOURCES: Laws, 2002, ch. 425, § 1, eff from and after July 1, 2002.

§ 65-3-71.69. Portion of U.S. 61 in Coahoma County designated as "Veterans' Memorial Drive."

(1) That portion of U.S. Highway 61 in Coahoma County beginning at its intersection with State Road 161 North and extending southerly to its intersection with State Road 161 South is designated and shall be known as "Veterans' Memorial Drive."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2002, ch. 458, § 1, eff from and after passage (approved Mar. 20, 2002.)

§ 65-3-71.70. Portion of Mississippi 19 in Lauderdale and Newton Counties designated as "Veterans Highway."

(1) That portion of Mississippi Highway 19 in Lauderdale and Newton Counties, beginning at the Alabama state line and extending northwesterly to the Neshoba county line, shall be known as "Veterans Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2002, ch. 556, § 1, eff from and after July 1, 2002.

§ 65-3-71.71. Portion of Mississippi 15 in Newton County designated as "WWII Veterans Highway."

(1) That portion of Mississippi Highway 15 in Newton County shall be known as "WWII Veterans Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2002, ch. 556, § 2, eff from and after July 1, 2002.

§ 65-3-71.72. "Jerry St. Pe' Highway" designated.

(1) Mississippi Highway 617 in Jackson County is designated and shall be known as the "Jerry St. Pe' Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2002, ch. 556, § 3, eff from and after July 1, 2002.

§ 65-3-71.73. "Evelyn Gandy Parkway" designated.

(1) That relocated segment of Mississippi Highway 42 in Forrest County beginning at its intersection with Interstate 59 and extending easterly to its intersection with Macedonia-Sunrise Road is designated and shall be known as the "Evelyn Gandy Parkway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

(3) Each segment of the Regional Thoroughfare proposed by the Hattiesburg-Petal-Forrest-Lamar Planning Organization, as described by a map on file with the Office of Public Services of the City of Hattiesburg, shall, as completed, be designated and known as the "Evelyn Gandy Parkway."

(4) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segments of highway described in subsection (1) of this section that are under its jurisdiction.

SOURCES: Laws, 2002, ch. 556, § 4, eff from and after July 1, 2002.

§ 65-3-71.74. Portions of Mississippi 304 Spur in Tunica County designated "Martin Luther King, Jr., Memorial Highway."

(1) The Mississippi Highway 304 Spur in Tunica County is designated and shall be known as the "Martin Luther King, Jr., Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2002, ch. 628, § 1, eff from and after passage (approved Apr. 25, 2002.)

§ 65-3-71.75. "Eugene P. Wilkes Memorial Bridge" designated.

(1) That bridge on Cowan-Lorraine Road in Harrison County that spans the Harrison County Industrial Seaway is designated and shall be known as the "Eugene P. Wilkes Memorial Bridge."

(2) The Mississippi Department of Transportation shall erect and maintain an appropriate plaque at each end of the bridge, and suitable markers along and approaching the bridge, reflecting its name.

SOURCES: Laws, 2002, ch. 628, § 2, eff from and after passage (approved Apr. 25, 2002.)

§ 65-3-71.76. Portion of Smithdale Road in City of McComb designated as "Veterans Boulevard."

(1) That portion of Smithdale Road (Mississippi 570) between Northwest Avenue and Enterprise Road in the corporate limits of the City of McComb is designated and shall be known as "Veterans Boulevard."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of roadway described in subsection (1) of this section.

SOURCES: Laws, 2002, ch. 628, § 3, eff from and after passage (approved Apr. 25, 2002.)

§ 65-3-71.77. "Stennis Airport Parkway" designated.

(1) That segment of Mississippi 603 in Hancock County beginning at Interstate 10 and extending northerly to Kiln is designated and shall be known as "Stennis Airport Parkway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section, including signs on Interstate 10 designating the proper exit from Interstate 10 to Stennis International Airport

if such signs are permitted under applicable federal laws, rules and regulations.

SOURCES: Laws, 2002, ch. 628, § 4, eff from and after passage (approved Apr. 25, 2002.)

§ 65-3-71.78. Portion of Mississippi Highway 315 in Yalobusha and Lafayette Counties designated as "Dr. Dewitt Clinton French Memorial Highway."

(1) That portion of Mississippi Highway 315 beginning at the eastern boundary of the corporate limits of the City of Water Valley, Yalobusha County, and extending easterly to its intersection with Mississippi Highway 9W in Lafayette County is designated and shall be known as the "Dr. Dewitt Clinton French Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2003, ch. 342, § 1, eff from and after passage (approved Mar. 12, 2003.)

§ 65-3-71.79. Portion of Mississippi Highway 1 in Sharkey and Issaquena Counties designated as "C.B. 'Buddie' Newman Memorial Highway."

(1) That portion of Mississippi Highway 1 in Sharkey and Issaquena Counties beginning at its intersection with U.S. Highway 61 at or near Onward and extending westerly and northerly to the Issaquena/Washington county line is designated and shall be known as the "C.B. 'Buddie' Newman Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2003, ch. 342, § 2, eff from and after passage (approved Mar. 12, 2003.)

§ 65-3-71.80. "Walton Greene Gray Memorial Highway" designated.

(1) That segment of Mississippi Highway 25 in Monroe County beginning at its intersection with Highway 382 to its intersection with U.S. Highway 45 Alternate is designated and shall be known as the "Walton Greene Gray Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2003, ch. 382, § 1, eff from and after passage (approved Mar. 13, 2003.)

Editor's Note — Laws of 2003, ch. 382, § 2, provides:
"SECTION 2. Section 1 of this act shall be codified as a new section in Chapter 3, Title 65, Mississippi Code of 1972.'"

§ 65-3-71.81. Portion of Mississippi Highway 18 in Jasper County designated as "Sheriff Tom Royce Green Memorial Highway."

(1) That portion of Mississippi Highway 18 in Jasper County beginning at the corporate limits of the Town of Bay Springs and extending northeasterly approximately twenty (20) miles to the Rose Hill community shall be known as the "Sheriff Tom Royce Green Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching that portion of Mississippi Highway 18 described in subsection (1) of this section.

SOURCES: Laws, 2003, ch. 500, § 1, eff from and after passage (approved Mar. 31, 2003.)

§ 65-3-71.82. "Stephen E. Ambrose Memorial Highway" designated.

(1) That portion of Interstate Highway 10 in Hancock County beginning at the Mississippi/Louisiana state line and extending easterly to its intersection with Mississippi Highway 43 is designated and shall be known as the "Stephen E. Ambrose Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching that portion of highway described in subsection (1) of this section.

SOURCES: Laws, 2003, ch. 550, § 2, eff from and after passage (approved Apr. 22, 2003.)

§ 65-3-71.83. Bridge on U.S. Highway 45 spanning Mississippi 19 in Meridian designated "Military Order of the Purple Heart, Department of Mississippi, Memorial Bridge."

(1) That the bridge on U.S. Highway 45 which spans Mississippi 19 in Meridian, Mississippi, shall be known and shall be designated as the "Military Order of the Purple Heart, Department of Mississippi, Memorial Bridge."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs approaching each end of the bridge described in subsection (1) of this section reflecting its name, and shall allow officers or official representatives of the Military Order of the Purple Heart, Department of Mississippi, to affix a memorial plaque at some suitable location on the bridge.

SOURCES: Laws, 2004, ch. 308, § 1, eff from and after July 1, 2004.

§ 65-3-71.84. "Medgar Evers Memorial Interchange" designated."

(1) The Interstate 20 and Highway 15 interchange in Newton County is designated and shall be known as the "Medgar Evers Memorial Interchange."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along the interchange.

SOURCES: Laws, 2004, ch. 319, § 1, eff from and after July 1, 2004.

§ 65-3-71.85. "D'Lo World War II Veterans Highway" designated.

(1) That segment of Mississippi Highway 149 (Old Highway 49) within the corporate limits of the Town of D'Lo, Simpson County, Mississippi, is designated and shall be known as the "D'Lo World War II Veterans Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2004, ch. 541, § 1, eff from and after passage (approved May 13, 2004.)

§ 65-3-71.86. "Liberty Parkway" designated.

(1) The municipal bypass south of Lexington connecting Mississippi Highways 17 and 12 is designated and shall be known as "Liberty Parkway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching such bypass.

SOURCES: Laws, 2004, ch. 541, § 2, eff from and after passage (approved May 13, 2004.)

§ 65-3-71.87. "Alton A. (Dolph) Kellar Memorial Highway" designated.

(1) That portion of Mississippi Highway 43 located in Hancock County beginning at its intersection with Mississippi Highway 603 and extending northerly and westerly to the Hancock/Pearl River county line is designated and shall be known as the "Alton A. (Dolph) Kellar Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2004, ch. 592, § 1, eff from and after passage (approved May 27, 2004.)

§ 65-3-71.88. "Lance Corporal Roy M. Wheat Memorial Highway" designated.

(1) That portion of Interstate Highway 59 located in Forrest and Jones Counties is designated and shall be known as the "Lance Corporal Roy M. Wheat Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2004, ch. 592, § 2, eff from and after passage (approved May 27, 2004.)

§ 65-3-71.89. "Joe Mitch McElwain Memorial Highway" designated.

(1) Mississippi Highway 773 located in Tippah County is designated and shall be known as the "Joe Mitch McElwain Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the highway described in subsection (1) of this section.

SOURCES: Laws, 2004, ch. 592, § 3, eff from and after passage (approved May 27, 2004.)

§ 65-3-71.90. "Korean War Veterans Memorial Highway" designated.

(1) U.S. Highway 80 within the State of Mississippi is designated and shall be known as the "Korean War Veterans Memorial Highway" in honor and memory of and in gratitude, recognition and appreciation for sacrifices and contributions made by the veterans of the Korean War.

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching U.S. Highway 80.

SOURCES: Laws, 2005, ch. 303, § 1, eff from and after passage (approved Feb. 22, 2005.)

§ 65-3-71.91. "David Bonds Memorial Highway" designated.

(1) That portion of Mississippi Highway 25 located in Tishomingo County is designated and shall be known as the "David Bonds Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2005, ch. 320, § 1, eff from and after passage (approved Mar. 14, 2005.)

§ 65-3-71.92. "J.P. Woods Memorial Highway" designated.

(1) That portion of Mississippi Highway 309 in Marshall County beginning at the community of Watson and extending northerly to the Mississippi/Tennessee state line, is designated and shall be known as the "J.P. Woods Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2005, ch. 348, § 1, eff from and after passage (approved Mar. 14, 2005.)

§ 65-3-71.93. "Veterans Memorial Highway" designated.

(1) That segment of U.S. Highway 84 located in Jones County beginning from 16th Avenue within the corporate limits of Laurel and extending westerly to the Jones/Covington county line is designated and shall be known as the "Veterans Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1).

SOURCES: Laws, 2005, ch. 418, § 1, eff from and after July 1, 2005.

§ 65-3-71.94. "Deputy Len J. Rowell Memorial Bridge" designated.

(1) The overpass located at exit 35 on Interstate 59 in Pearl River County is designated and shall be known as the "Deputy Len J. Rowell Memorial Bridge."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the overpass described in subsection (1).

SOURCES: Laws, 2005, ch. 418, § 2, eff from and after July 1, 2005.

§ 65-3-71.95. "Chaney, Goodman and Schwerner Memorial Highway" designated.

(1) That segment of Mississippi Highway 19 located in Neshoba County beginning at the corporate limits of Philadelphia in Neshoba County and extending southeasterly to the Neshoba/Newton county line is designated and shall be known as the "Chaney, Goodman and Schwerner Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway.

SOURCES: Laws, 2005, ch. 418, § 3, eff from and after July 1, 2005.

§ 65-3-71.96. "Emmitt Till Memorial Highway" designated.

(1) That segment of U.S. Highway 49E located in Leflore and Tallahatchie Counties beginning at the intersection of U.S. Highway 49E and U.S. Highway 82 and extending to the intersection of U.S. Highway 49E and Mississippi Highway 3 is designated and shall be known as the "Emmitt Till Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway.

SOURCES: Laws, 2005, ch. 418, § 4, eff from and after July 1, 2005.

§ 65-3-71.97. "Joe A. Waggoner Memorial Highway" designated.

(1) That portion of Mississippi Highway 43 located in Leake, Madison and Rankin Counties beginning at the western corporate limits of the town of Sandhill, in Rankin County, and extending northerly to the Leake/Attala County line, is designated and shall be known as the "Joe A. Waggoner Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate markers along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2005, ch. 490, § 1, eff from and after passage (approved Apr. 19, 2005.)

§ 65-3-71.98. "Heroes Trail" designated.

(1) That portion of Mississippi Highway 472 in Copiah County beginning at Shady Grove Church and extending easterly to Rock Port Road is designated and shall be known as "Heroes Trail."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2005, ch. 524, § 1, eff from and after passage (approved Apr. 20, 2005.)

§ 65-3-71.99. "Officer Ronald Wayne Jones Memorial Highway" designated.

(1) That portion of U.S. Highway 84 located in Jefferson Davis County is designated and shall be known as the "Officer Ronald Wayne Jones Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2005, ch. 524, § 2, eff from and after passage (approved Apr. 20, 2005.)

§ 65-3-71.100. "Amie Ewing Memorial Highway" designated.

(1) That portion of Mississippi Highway 6 within the corporate limits of Oxford, Lafayette County, between the Old Taylor Road Exit and the South Lamar Exit is designated and shall be known as "Amie Ewing Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2005, ch. 524, § 3, eff from and after passage (approved Apr. 20, 2005.)

§ 65-3-71.101. "S.A. (Junior) Hancock Memorial Interchange" designated.

(1) The interchange located at the intersection of Mississippi Highway 6 and the Natchez Trace Parkway in Lee County is designated and shall be known as the "S.A. (Junior) Hancock Memorial Interchange."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs approaching the interchange from the east and west that shall include the following: "S.A. (Junior) Hancock devoted his life to the completion of the Natchez Trace Parkway. His goal was achieved on May 21, 2005."

SOURCES: Laws, 2006, ch. 310, § 1, eff from and after July 1, 2006.

§ 65-3-71.102. "Albert B. Shows Memorial Highway" designated.

(1) That segment of U. S. Highway 29 in Jones County, beginning at the Jones/Perry County line and extending to the southern city limits of Ellisville is designated and shall be known as the "Albert B. Shows Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2006, ch. 310, § 2, eff from and after July 1, 2006.

§ 65-3-71.103. "Joe Pope Boulevard" designated.

(1) That segment of Mississippi Highway 1 within the corporate limits of the City of Rosedale, Bolivar County, is designated and shall be known as "Joe Pope Boulevard."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway.

SOURCES: Laws, 2006, ch. 493, § 2, eff from and after July 1, 2006.

§ 65-3-71.104. "J.O. Southward, Jr., Memorial Highway" designated.

(1) That segment of Mississippi Highway 30 lying in Tishomingo County beginning at the Prentiss/Tishomingo county line and extending to the entrance road of the Natchez Trace Parkway shall be designated and known as the "J.O. Southward, Jr., Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2007, ch. 308, § 1, eff from and after July 1, 2007.

§ 65-3-71.105. "Birdia Keglar Memorial Highway" designated.

(1) That portion of Mississippi Highway 35 in Tallahatchie County beginning at the northern corporate boundaries of the City of Charleston and extending northerly to the Tallahatchie/Panola county line is designated and shall be known as the "Birdia Keglar Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2007, ch. 387, § 1, eff from and after passage (approved Mar. 15, 2007.)

§ 65-3-71.106. "Veterans Drive" designated.

(1) That portion of Mississippi Highway 145 within the City of Aberdeen, beginning at its intersection with Mississippi Highway 8 and extending northwesterly to U.S. Highway 45, is designated and shall be known as "Veterans Drive."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2007, ch. 408, § 1, eff from and after passage (approved Mar. 16, 2007.)

§ 65-3-71.107. "Randy Chancellor Memorial Highway" designated.

(1) Mississippi Highway 537 located in Jones County is designated and shall be known as the "Randy Chancellor Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2007, ch. 411, § 1, eff from and after passage (approved Mar. 16, 2007.)

§ 65-3-71.108. "State Trooper Ralph Newell Memorial Highway" designated.

(1) That portion of U.S. Highway 49 in Covington County beginning one (1) mile south of its intersection with Mississippi Highway 35 and extending northwesterly for two (2) miles is designated and shall be known as the "State Trooper Ralph Newell Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2007, ch. 545, § 1, eff from and after passage (approved Apr. 18, 2007.)

§ 65-3-71.109. "Richard Wright Memorial Highway" designated.

(1) That portion of U.S. Highway 84 in Adams County, beginning at its intersection with Hobo Forks and extending easterly to the Adams/Franklin County line, designated and shall be known as the "Richard Wright Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2008, ch. 302, § 1, eff from and after passage (approved Feb. 21, 2008.)

§ 65-3-71.110. Bridge on Mississippi Highway 9 spanning Skuna River in Calhoun County designated "Military Order of the Purple Heart, Department of Mississippi, Memorial Bridge."

(1) That bridge on Mississippi Highway 9 in Calhoun County that spans the Skuna River is designated and shall be known as the "Military Order of the Purple Heart, Department of Mississippi, Memorial Bridge."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate plaques at each end of the bridge described in subsection (1) of this section, and suitable markers along and approaching the bridge, reflecting its name.

SOURCES: Laws, 2007, ch. 545, § 3, eff from and after passage (approved Apr. 18, 2007.)

§ 65-3-71.111. "Hilton 'Ike' Shoemake Memorial Highway" designated.

(1) That portion of U.S. Highway 84 in Wayne County beginning at the Jones/Wayne County line and extending easterly to its intersection with Pleasant Grove-Strengthford Road, is designated and shall be known as the "Hilton 'Ike' Shoemake Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2008, ch. 344, § 1, eff from and after passage (approved Mar. 26, 2008.)

§ 65-3-71.112. "Dudley R. Bozeman Memorial Highway" designated.

(1) Proposed new Mississippi Highway 22 Alternate in Hinds and Madison Counties beginning at or near Edwards and extending northeasterly to or near Canton shall be designated and shall be known, upon completion, as the "Dudley R. Bozeman Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2008, ch. 345, § 1, eff from and after passage (approved Mar. 26, 2008.)

§ 65-3-71.113. "Dr. Gilbert R. Mason, Sr., Memorial Highway" designated.

(1) That portion of U.S. Highway 90 in the City of Biloxi beginning at Rodenberg Avenue and extending easterly to Porter Avenue, is designated and shall be known as the "Dr. Gilbert R. Mason, Sr., Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2008, ch. 346, § 1, eff from and after passage (approved Mar. 26, 2008.)

§ 65-3-71.114. "Cpl. Dustin Jerome Lee Memorial Highway" designated.

(1) Mississippi Highway 393 in Winston County is designated and shall be known as the "Cpl. Dustin Jerome Lee Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2008, ch. 347, § 1, eff from and after passage (approved Mar. 26, 2008.)

§ 65-3-71.115. "James C. Simpson, Sr., Memorial Highway" designated.

(1) That portion of U.S. Highway 90 in the City of Pass Christian between Davis Avenue and Market Street is designated and shall be known as the "James C. Simpson, Sr., Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2008, ch. 349, § 1, eff from and after passage (approved Mar. 26, 2008.)

§ 65-3-71.116. "James 'Diddio' McDaniel and Stayce Wilkinson Memorial Highway" designated.

(1) That portion of Mississippi Highway 16 in Yazoo County beginning at the Big Black River and extending northwesterly to its intersection with U.S. Highway 49 is designated and shall be known as the "James 'Diddio' McDaniel and Stayce Wilkinson Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2008, ch. 350, § 1, eff from and after passage (approved Mar. 26, 2008.)

§ 65-3-71.117. "Dr. W.W. Walley Memorial Highway" designated.

(1) That portion of U.S. Highway 84 in Wayne County beginning at its intersection with Mississippi Highway 184 and extending northeasterly to the Mississippi/Alabama state line is designated and shall be known as the "Dr. W.W. Walley Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2008, ch. 351, § 1, eff from and after passage (approved Mar. 26, 2008.)

§ 65-3-71.118. "Billy Lancaster Memorial Highway" designated.

(1) That portion of U.S. Highway 51 in Montgomery County beginning at the northern corporate limits of the City of Winona and extending northerly to

the Montgomery/Grenada County line is designated and shall be known as the "Billy Lancaster Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2008, ch. 371, § 1, eff from and after passage (approved Mar. 31, 2008.)

§ 65-3-71.119. "Mallory-Davis Memorial Highway" designated.

(1) That portion of Mississippi Highway 12 in Holmes County beginning at the eastern corporate limits of the City of Lexington and extending easterly to the corporate limits of the City of Durant is designated and shall be known as the "Mallory-Davis Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2008, ch. 376, § 1, eff from and after passage (approved Mar. 31, 2008.)

§ 65-3-71.120. "W.C. 'Bill' Hancock Memorial Highway" designated.

(1) That portion of Mississippi Highway 305 in Tate County from its intersection with Mississippi 306 to its intersection with Pryor Road shall be known as the "W.C. 'Bill' Hancock Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching such highway.

SOURCES: Laws, 2008, ch. 482, § 1, eff from and after passage (approved Apr. 14, 2008.)

§ 65-3-71.121. "James Arnold Flowers Highway" designated.

(1) That portion of U.S. Highway 184 in Jones County beginning one-half (½) mile east of I-59 and extending easterly to its intersection with U.S. Highway 84 is designated and shall be known as the "James Arnold Flowers Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2008, ch. 482, § 2, eff from and after passage (approved Apr. 14, 2008.)

§ 65-3-71.122. "Judith Toups Least Tern Highway" designated.

(1) That portion of U.S. Highway 90 within the City of Gulfport between Cowan Road and Debuys Road is designated and shall be known as the "Judith Toups Least Tern Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2008, ch. 490, § 1, eff from and after passage (approved Apr. 15, 2008.)

§ 65-3-71.123. "Major Michael Green Memorial Highway" designated.

(1) That portion of U.S. Highway 90 in the City of Gautier between Oak Street and Shamrock Court is designated and shall be known as the "Major Michael Green Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2008, ch. 490, § 2, eff from and after passage (approved Apr. 15, 2008.)

§ 65-3-71.124. "Highway 61, the Blues Highway" designated.

(1) U.S. Highway 61 in the State of Mississippi is designated and shall be known as "Highway 61, the Blues Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the highway described in subsection (1) of this section.

SOURCES: Laws, 2008, ch. 510, § 1, eff from and after passage (approved May 7, 2008.)

§ 65-3-71.125. "Juanell Lollar Memorial Highway" designated.

(1) That portion of U.S. Highway 82 in Montgomery County beginning at the western corporate limit of the Town of Kilmichael and extending easterly to the eastern corporate limit of the Town of Kilmichael, is designated and shall be known as the "Juanell Lollar Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2009, ch. 304, § 1, eff from and after July 1, 2009.

§ 65-3-71.126. "Charles H. Mason Memorial Highway" designated.

(1) That segment of Mississippi Highway 17 in Holmes County beginning at the northern corporate boundary of Lexington and extending northerly to its intersection with Bellbottom Road, is designated and shall be known as the "Charles H. Mason Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2009, ch. 309, § 1, eff from and after July 1, 2009.

§ 65-3-71.127. "John Stewart Watson Memorial Highway" designated.

That Mississippi State Highway No. 17, running from Pickens in Holmes County to Carrollton in Carroll County, excluding that segment in Holmes County beginning at the northern corporate boundary of Lexington and extending northerly to its intersection with Bellbottom Road, is hereby designated the John Stewart Watson Memorial Highway; and the Highway Department of the State of Mississippi is hereby directed to appropriately mark such highway with suitable memorial markers in accordance with the provisions of this section.

SOURCES: Laws, 1954, ch. 299, § 1; Laws, 2009, ch. 309, § 2, eff from and after July 1, 2009.

Editor's Note — This section has been codified at the direction of Co-Counsel for The Joint Legislative Committee on Compilation, Revision and Publication of Legislation.

§ 65-3-71.128. "Corporal James Calvin 'Jamie' Walker Memorial Highway" designated.

(1) That segment of U.S. Highway 84 in Wayne County beginning at its westernmost intersection with Mississippi Highway 184 and extending westerly to its intersection with John Dykes Road, is designated and shall be known as the "Corporal James Calvin 'Jamie' Walker Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2009, ch. 310, § 1, eff from and after July 1, 2009.

§ 65-3-71.129. "Lieutenant Robert J. Curry Memorial Highway" designated.

(1) That portion of U.S. Highway 49 beginning at the intersection with Community Road and extending northerly to its intersection with Dedeaux

Road is designated and shall be known as the "Lieutenant Robert J. Curry Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2009, ch. 312, § 1, eff from and after passage (approved Mar. 3, 2009.)

§ 65-3-71.130. "David R. Brown Memorial Bridge" designated.

(1) That bridge on Interstate 59 in the City of Laurel in Jones County between Beacon Street to the south of the bridge and Fourth Avenue to the north of the bridge shall be known as the "David R. Brown Memorial Bridge."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate plaques at each end of the bridge, and suitable markers along and approaching the bridge, reflecting its name.

SOURCES: Laws, 2009, ch. 313, § 1, eff from and after July 1, 2009.

§ 65-3-71.131. "William W. 'Bill' Ramsey Memorial Highway" designated.

(1) That segment of Mississippi Highway 465 in Warren County beginning at its intersection with U.S. Highway 61 and extending westerly to its easternmost intersection with the Issaquena County line, is designated and shall be known as the "William W. 'Bill' Ramsey Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2009, ch. 314, § 1, eff from and after July 1, 2009.

§ 65-3-71.132. "Leo W. Seal, Jr., Memorial Bridge" designated.

(1) The bridge on U.S. Highway 90 in Mississippi that spans the Gulf of Mexico and St. Louis Bay between the municipalities of Bay St. Louis and Pass Christian is designated and shall be known as the "Leo W. Seal, Jr., Memorial Bridge."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs and markers along and approaching, and at each end of, the bridge described in subsection (1) of this section, reflecting its name and the contributions made by the late Mr. Seal as a prominent economic development leader of the Mississippi Gulf Coast and a dedicated philanthropist and supporter of education throughout the state.

SOURCES: Laws, 2009, ch. 315, § 1, eff from and after passage (approved Mar. 3, 2009.)

§ 65-3-71.133. "Officer Larry DeWayne Lee Memorial Highway" designated.

(1) That portion of Interstate 10 within the corporate limits of the City of Moss Point from Mississippi Highway 63 to Veterans Memorial Bridge is designated and shall be known as "Officer Larry DeWayne Lee Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the portion of highway described in subsection (1).

SOURCES: Laws, 2009, ch. 351, § 1, eff from and after July 1, 2009.

§ 65-3-71.134. "Louis Jackson Boulevard" designated.

(1) That portion of Mississippi Highway 63 within the corporate limits of the City of Moss Point is designated and shall be known as "Louis Jackson Boulevard."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the portion of highway described in subsection (1).

SOURCES: Laws, 2009, ch. 423, § 1, eff from and after July 1, 2009.

§ 65-3-71.135. "Jackson County Veterans Memorial Bridge" designated.

(1) The bridge on U.S. Highway 90 in Jackson County that spans the East Pascagoula River is designated and shall be known as the "Jackson County Veterans Memorial Bridge."

(2) The Transportation Department shall erect and maintain an appropriate plaque at each end of the bridge and suitable markers along and approaching the bridge.

SOURCES: Laws, 2009, ch. 453, § 3, eff from and after July 1, 2009.

§ 65-3-71.136. "Veterans Memorial Bypass" designated.

(1) That portion of U.S. Highway 82 that bypasses the City of Columbus from its intersection with U.S. Highway 45 South and extending easterly to the Mississippi/Alabama line is designated and shall be known as the "Veterans Memorial Bypass."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2009, ch. 453, § 4, eff from and after July 1, 2009.

§ 65-3-71.137. "George 'Happy' Irby Parkway" designated.

(1) That portion of Mississippi Highway 786 in Lowndes County beginning at U.S. Highway 45 and extending to the gate of the Columbus Air Force Base is designated and shall be known as the "George 'Happy' Irby Parkway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2009, ch. 453, § 5, eff from and after July 1, 2009.

§ 65-3-71.138. "Van T. Barfoot Medal of Honor Highway" designated.

(1) That portion of Mississippi Highway 16 in Leake County beginning at the intersection of Mississippi Highway 16 and Mississippi Highway 35 and extending easterly to the Leake/Neshoba county line is designated and shall be known as "Van T. Barfoot Medal of Honor Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the portion of highway described in subsection (1).

SOURCES: Laws, 2009, ch. 453, § 6, eff from and after July 1, 2009.

§ 65-3-71.139. "Manning Boulevard" designated.

(1) That portion of U.S. Highway 49-W within the corporate limits of the City of Drew is designated and shall be known as "Manning Boulevard."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the portion of highway described in subsection (1).

SOURCES: Laws, 2009, ch. 453, § 7, eff from and after July 1, 2009.

§ 65-3-71.140. "Jack Lucas Medal of Honor Memorial Highway" designated.

(1) That portion of U.S. Highway 49 in Forrest County beginning at the intersection of U.S. Highway 49 and Hardy Street in Hattiesburg and extending southerly to the Forrest/Stone county line is designated and shall be known as "Jack Lucas Medal of Honor Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the portion of highway described in subsection (1).

SOURCES: Laws, 2009, ch. 466, § 1, eff from and after July 1, 2009.

§ 65-3-71.141. "Phyllis Hawkins Harper Interchange" designated.

(1) The Dorsey-Fawn Grove intersection in Itawamba County on United States Highway 78 (future I-22) shall be known as "Phyllis Hawkins Harper Interchange."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the intersection described in subsection (1).

SOURCES: Laws, 2009, ch. 466, § 2, eff from and after July 1, 2009.

§ 65-3-71.142. "Donald R. Chambliss, Sr. Memorial Highway" designated.

(1) That portion of Mississippi Highway 302, known as Goodman Road, within the corporate limits of the City of Southaven is designated and shall be known as the "Donald R. Chambliss, Sr. Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the portion of highway described in subsection (1).

SOURCES: Laws, 2009, ch. 541, § 2, eff from and after passage (approved Apr. 15, 2009.)

§ 65-3-71.143. "Bobby H. Johnson Memorial Highway" designated.

(1) That portion of U.S. Highway 72 within the corporate limits of the Town of Burnsville is designated and shall be known as the "Bobby H. Johnson Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the portion of highway described in subsection (1).

SOURCES: Laws, 2009, ch. 541, § 3, eff from and after passage (approved Apr. 15, 2009.)

§ 65-3-71.144. Memorial intersection for Jack Lewis Dudley designated.

(1) The intersection of U.S. Highway 45 and Mississippi Highway 16 in Scooba, Mississippi, is designated as a memorial intersection for Jack Lewis Dudley.

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs at the intersection to read as follows: "Birthplace of World Champion Turkey Caller Jack Lewis Dudley."

SOURCES: Laws, 2009, ch. 541, § 4, eff from and after passage (approved Apr. 15, 2009.)

§ 65-3-71.145. "Representative Fred Dobbins Memorial Highway" designated.

(1) That segment of Mississippi Highway 63 in Greene County located within one-half (½) mile north and south of the entrance to the Southeast Mississippi Correctional Institution, is designated and shall be known as the "Representative Fred Dobbins Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2010, ch. 331, § 1, eff from and after July 1, 2010.

§ 65-3-71.146. "John W. Shaw, Sr., Memorial Highway" designated.

(1) That segment of Mississippi Highway 310 in Marshall County beginning at its intersection with Mississippi Highway 7 and extending southerly to the Lafayette County line, is designated and shall be known as the "John W. Shaw, Sr., Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2010, ch. 333, § 1, eff from and after July 1, 2010.

§ 65-3-71.147. "Dr. T.R.M. Howard Memorial Highway" designated.

(1) That segment of Mississippi Highway 161 in Bolivar County beginning at its intersection with the northern corporate limits of the City of Mound Bayou and extending southerly to the southern corporate limits of the City of Mound Bayou, is designated and shall be known as the "Dr. T.R.M. Howard Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2010, ch. 333, § 2, eff from and after July 1, 2010.

§ 65-3-71.148. "Jeffery Rugheimer Memorial Highway" designated.

(1) That segment of U.S. Highway 90 in the City of Pascagoula from Pascagoula Street to 14th Street is designated and shall be known as the "Jeffery Rugheimer Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2010, ch. 443, § 1, eff from and after July 1, 2010.

§ 65-3-71.149. "Nathaniel Smith, Jr. Memorial Highway" designated.

(1) That segment of U.S. Highway 90 in the City of Pascagoula from 14th Street to Chicot Street is designated and shall be known as the "Nathaniel Smith, Jr. Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2010, ch. 443, § 2, eff from and after July 1, 2010.

§ 65-3-71.150. "Terry Micheal Byrd Memorial Highway" designated.

(1) That segment of U.S. Highway 90 in the City of Pascagoula from Chicot Street to Mississippi Highway 611 is designated and shall be known as the "Terry Micheal Byrd Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2010, ch. 443, § 3, eff from and after July 1, 2010.

§ 65-3-71.151. "Tammy Wynette Memorial Highway" designated.

(1) That segment of Mississippi Highway 23 in Itawamba County beginning at its intersection with Mississippi Highway 178 and extending northerly to the Mississippi/Alabama state line is designated and shall be known as the "Tammy Wynette Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2010, ch. 444, § 1, eff from and after July 1, 2010.

§ 65-3-71.152. "Ken Lundberg Memorial Highway" designated.

(1) That segment of U.S. Highway 51 in Grenada County beginning at its intersection with Mississippi Highway 8 and extending to the southern

corporate limits of the City of Grenada is designated and shall be known as the "Ken Lundberg Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2010, ch. 445, § 1, eff from and after July 1, 2010.

§ 65-3-71.153. "Veteran's Memorial Bridge" designated.

(1) That bridge located on D'Iberville Boulevard, also identified as Old Mississippi Highway 67, in Harrison County that traverses over Interstate 10 is designated and shall be known as the "Veteran's Memorial Bridge."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching, and at each end of, the bridge described in subsection (1) of this section.

SOURCES: Laws, 2010, ch. 445, § 2, eff from and after July 1, 2010.

§ 65-3-71.154. "Dr. Aaron E. Henry Memorial Highway" designated.

(1) That segment of Mississippi Highway 161 in Coahoma County beginning at its northern county line and extending southerly to its southern county line, is designated and shall be known as the "Dr. Aaron E. Henry Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2010, ch. 549, § 1, eff from and after July 1, 2010.

§ 65-3-71.155. "Staff Sergeant Mark Haskin Eaton Memorial Highway" designated.

(1) That segment of Mississippi Highway 531 within Smith County, Mississippi, beginning at its intersection with Mississippi 28 and extending to the Smith/Jasper county line shall be known and designated as the "Staff Sergeant Mark Haskin Eaton Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the highway.

SOURCES: Laws, 2011, ch. 305, § 1, eff from and after passage (approved Feb. 22, 2011.)

§ 65-3-71.156. "Euclatubba Memorial Crossing" designated.

(1) That bridge which is constructed over U.S. Highway 45 at Euclatubba Road in Lee County is designated and shall be known as the "Euclatubba Memorial Crossing."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs approaching each end of the bridge described in subsection (1) of this section.

SOURCES: Laws, 2011, ch. 318, § 1, eff from and after July 1, 2011.

§ 65-3-71.157. "The Gulf Ordnance Plant Memorial Highway" designated.

(1) That segment of Mississippi Highway 382 in Monroe County beginning at its intersection with U.S. Alternate Highway 45 and extending easterly to its intersection with Mississippi Highway 25, is designated and shall be known as "The Gulf Ordnance Plant Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2011, ch. 320, § 1, eff from and after July 1, 2011.

§ 65-3-71.158. "Dr. Walter Washington Memorial Parkway" designated.

(1) That segment of Mississippi Highway 552 that lies within Jefferson and Claiborne Counties is designated and shall be known as the "Dr. Walter Washington Memorial Parkway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2011, ch. 320, § 2, eff from and after July 1, 2011.

§ 65-3-71.159. "Trooper Steve Hood Memorial Highway" designated.

(1) That segment of Mississippi Highway 370 in Lee County beginning at the western boundary line of the City of Baldwyn and extending westerly to its intersection with Brices Cross Roads, is designated and shall be known as the "Trooper Steve Hood Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2011, ch. 319, § 1, eff from and after July 1, 2011.

§ 65-3-71.160. "Trooper Steve Gardner Memorial Highway" designated.

(1) That segment of U.S. Highway 51 in Copiah County beginning at its intersection with the northern corporate limits of the City of Hazlehurst and extending southerly to its intersection with Sinclair Street, is designated and shall be known as the "Trooper Steve Gardner Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2011, ch. 319, § 2, eff from and after July 1, 2011.

§ 65-3-71.161. "Blue Star Highway" designated.

(1) That segment of Mississippi Highway 198 in Greene County beginning at its intersection with U.S. Highway 98 and extending southeasterly to its intersection with Mississippi Highway 57, is designated and shall be known as the "Blue Star Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2011, ch. 316, § 1, eff from and after July 1, 2011.

§ 65-3-71.162. "Rev. George W. Lee Memorial Highway" designated.

(1) That segment of U.S. Highway 49W that lies within Humphreys County, is designated and shall be known as the "Rev. George W. Lee Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2011, ch. 315, § 1, eff from and after July 1, 2011.

§ 65-3-71.163. "Mickey Gene Johnson Memorial Highway" designated.

(1) That segment of Mississippi Highway 25 within the corporate limits of the Town of Belmont, Mississippi, shall be known and designated as the "Mickey Gene Johnson Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the highway.

SOURCES: Laws, 2011, ch. 336, § 1, eff from and after July 1, 2011.

§ 65-3-71.164. "Mississippi Gold Star Memorial Highway" designated.

(1) That segment of U.S. Interstate 59 beginning at Exit 5 in the City of Picayune and extending northerly to the southern corporate limits of the City of Hattiesburg shall be known and designated as the "Mississippi Gold Star Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the highway.

SOURCES: Laws, 2011, ch. 335, § 1, eff from and after July 1, 2011.

§ 65-3-71.165. "Military Order of the Purple Heart Highway" designated.

(1) That segment of Mississippi Highway 6 within Pontotoc County, Mississippi, shall be known and designated as the "Military Order of the Purple Heart Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the highway.

SOURCES: Laws, 2011, ch. 334, § 1, eff from and after July 1, 2011.

§ 65-3-71.166. "Martin Luther King, Jr. Memorial Highway" designated.

(1) That segment of U.S. Highway 51 within the corporate limits of the Town of Coldwater, Mississippi, shall be known and designated as "Martin Luther King, Jr. Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the highway.

SOURCES: Laws, 2011, ch. 333, § 1, eff from and after July 1, 2011.

§ 65-3-71.167. "Sgt. Todd Partridge Memorial Highway" designated.

(1) That segment of U.S. Highway 84 within Adams County, Mississippi, shall be known and designated as "Sgt. Todd Partridge Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the highway.

SOURCES: Laws, 2011, ch. 332, § 1, eff from and after July 1, 2011.

§ 65-3-71.168. "Jefferson 'Carl' Monk, Jr. Memorial Highway" designated.

(1) That segment of Mississippi Highway 11 within Jones County, Mississippi, beginning at the intersection of Mississippi Highway 11 North and

Magnolia/Eratta Road and extending to its intersection at the Jones/Jasper County line shall be known and designated as "Jefferson 'Carl' Monk, Jr. Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the highway.

SOURCES: Laws, 2011, ch. 331, § 1, eff from and after July 1, 2011.

§ 65-3-71.169. "Chaplin Clark Polling Memorial Highway" designated.

(1) That a certain segment of highway adjacent to Camp Shelby shall be known and designated as "Chaplin Clark Polling Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the highway.

SOURCES: Laws, 2011, ch. 328, § 1, eff from and after July 1, 2011.

§ 65-3-71.170. "Roger D. Moore Memorial Highway" designated.

(1) That segment of Mississippi Highway 366 within Tishomingo County, Mississippi, beginning at its intersection with Mississippi 25 in the Town of Belmont and extending to North Patterson Street in the Town of Golden shall be known and designated as "Roger D. Moore Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the highway.

SOURCES: Laws, 2011, ch. 330, § 1, eff from and after July 1, 2011.

§ 65-3-71.171. "Willye B. White Memorial Highway" designated.

(1) That segment of U.S. Highway 49E beginning at the southern corporate limits of the City of Greenwood and extending southerly to the Town of Sidon shall be known and designated as the "Willye B. White Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching that segment of the highway.

SOURCES: Laws, 2011, ch. 487, § 1, eff from and after July 1, 2011.

§ 65-3-71.172. "'Mr. & Mrs. E.H. Sumner Memorial Highway" designated.

(1) That segment of U.S. Highway 82 located in Montgomery County beginning with its intersection with the Montgomery/Webster County line and extending westerly three and one-fourth (3-¼) miles is designated and shall be known as the "Mr. & Mrs. E.H. Sumner Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching that segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2011, ch. 487, § 2, eff from and after July 1, 2011.

§ 65-3-71.173. "A.C. Hillman Highway" designated.

(1) That segment of U.S. Highway 98 located in George County beginning with its intersection with Mississippi Highway 198 and extending northerly to its intersection with the George/Greene County line, is designated and shall be known as the "A.C. Hillman Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching that segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2011, ch. 487, § 3, eff from and after July 1, 2011.

§ 65-3-71.174. "William S. 'Seth' Ricketts Memorial Highway" designated.

(1) That segment of U.S. Highway 72 located in Alcorn County within the town limits of the Town of Glen, is designated and shall be known as the "William S. 'Seth' Ricketts Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching that segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2011, ch. 487, § 4, eff from and after July 1, 2011.

§ 65-3-71.175. "Coach Sim Cooley Memorial Highway" designated.

(1) That segment of U.S. Highway 11 located in Jones County beginning with its intersection with the southern town limits of the Town of Sandersville and extending northerly to its intersection with Main Street, is designated and shall be known as the "Coach Sim Cooley Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching that segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2011, ch. 487, § 5, eff from and after July 1, 2011.

§ 65-3-71.176. "Walter W. Jack, Jr., Memorial Highway" designated.

(1) That segment of U.S. Highway 11 located in Jones County beginning with its intersection with Main Street in the Town of Sandersville and extending northerly to its intersection with the northern town limits of the

Town of Sandersville, is designated and shall be known as the "Walter W. Jack, Jr., Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching that segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2011, ch. 487, § 6, eff from and after July 1, 2011.

§ 65-3-71.177. "Jack Cristil Highway" designated.

(1) That segment of U.S. Highway 82, also known as the 82 Bypass, located within the corporate limits of the City of Starkville shall be known and designated as the "Jack Cristil Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching that segment of highway.

SOURCES: Laws, 2011, ch. 487, § 7, eff from and after July 1, 2011.

§ 65-3-71.178. "Coach Ben B. James Sr. Memorial Highway" designated.

(1) That segment of U.S. Highway 84 in Covington County beginning at the eastern corporate limits of the City of Collins and extending easterly to the intersection of Mississippi Highway 588 and Salem School Road is designated and shall be known as the "Coach Ben B. James Sr. Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the highway.

SOURCES: Laws, 2012, ch. 304, § 1, eff from and after July 1, 2012.

§ 65-3-71.179. "Carl J. 'Jack' Gordon, Jr. Memorial Highway" designated.

(1) That portion of Mississippi Highway 245 in Chickasaw County beginning at the Lee and Chickasaw county line and proceeding southerly to the northern corporate limits of the City of Okolona, is designated and shall be known as the Carl J. "Jack" Gordon, Jr. Memorial Highway.

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching that portion of Mississippi Highway 245.

SOURCES: Laws, 2012, ch. 314, § 1, eff from and after July 1, 2012.

§ 65-3-71.180. "Martin Luther King, Jr., Memorial Highway" designated.

(1) That segment of Mississippi Highway 51 in Holmes County that lies within the corporate limits of the Town of Goodman, is designated and shall be known as the "Martin Luther King, Jr., Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2012, ch. 330, § 1, eff from and after July 1, 2012.

§ 65-3-71.181. "William R. 'Bill' Minor Memorial Highway" designated.

(1) That segment of highway that is designated as U.S. Highway 78 and will be redesignated as Interstate 22 beginning at the Marshall/DeSoto county line and extending to the Benton/Union county line shall be known and designated as the "William R. 'Bill' Minor Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2012, ch. 332, § 1; 333, § 1, eff from and after July 1, 2012.

Editor's Note — Section 1 of Chapter 332, Laws of 2012, contained language that was nearly identical to the language in Section 1 of Chapter 333, Laws of 2012, except for an additional nonsubstantive clause in subsection (2). At the direction of the co-counsel for the Joint Legislative Committee on Compilation, Revision and Publication of Legislation, Section 1 of Chapter 332 has not been codified.

§ 65-3-71.182. "Kevser Ermin Memorial Highway" designated.

(1) That segment of Mississippi Highway 314 in Lafayette County beginning at its intersection with County Road 102 and extending northwesterly for a distance of four and one-half (4-½) miles, is designated and shall be known as the "Kevser Ermin Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2012, ch. 361, § 1, eff from and after July 1, 2012.

§ 65-3-71.183. "John Wayne Haddock Memorial Interchange" designated.

(1) The Interstate Highway 55 and Mississippi Highway 8 interchange in Grenada County is designated and shall be known as the "John Wayne Haddock Memorial Interchange."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2012, ch. 358, § 1, eff from and after July 1, 2012.

§ 65-3-71.184. "Anse Dees Memorial Bypass" designated.

(1) The U.S. Highway 82 bypass within Washington County, Mississippi, is designated and shall be known as the "Anse Dees Memorial Bypass."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the bypass.

SOURCES: Laws, 2012, ch. 411, § 1, eff from and after July 1, 2012.

§ 65-3-71.185. "F. Wade Lambert Memorial Highway" designated.

(1) That segment of Mississippi Highway 30 Bypass in Prentiss County and the City of Booneville, Mississippi, beginning at its intersection with U.S. Highway 45 and extending easterly to its intersection with Mississippi Highway 30, is designated and shall be known as the "F. Wade Lambert Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2012, ch. 408, § 1, eff from and after July 1, 2012.

§ 65-3-71.186. "Robert L. Johnson Blues Memorial Highway" designated.

(1) That segment of Interstate Highway 55 in Copiah County beginning at mile marker 59 and extending northerly to mile marker 72, is designated and shall be known as the "Robert L. Johnson Blues Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2012, ch. 535, § 1, eff from and after July 1, 2012.

§ 65-3-71.187. "Richard Alexandra 'Dickie' Ware Memorial Highway" designated.

(1) That segment of Mississippi Highway 15 North in Jasper County beginning at the Mississippi Army National Guard Armory and ending at the northern corporate limits of the City of Bay Springs is designated and shall be known as the Richard Alexandra "Dickie" Ware Memorial Highway.

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2012, ch. 541, § 1, eff from and after July 1, 2012.

§ 65-3-71.188. "SFC Severin West Summers III Memorial Highway" designated.

(1) That segment of U.S. Highway 61 South in Adams County beginning at its intersection with Kingston Road and extending southerly to its intersection with Hutchins Landing Road, is designated and shall be known as the "SFC Severin West Summers III Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2012, ch. 541, § 2, eff from and after July 1, 2012.

§ 65-3-71.189. "Military Order of the Purple Heart Highway" designated.

(1) That segment of Mississippi Highway 6 within Lafayette County, Mississippi, shall be known and designated as the "Military Order of the Purple Heart Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the highway.

SOURCES: Laws, 2012, ch. 541, § 3, eff from and after July 1, 2012.

§ 65-3-71.190. "Robert L. 'Bob' Crook Memorial Highway" designated.

(1) That segment of Mississippi Highway 8 in Sunflower County from the city limits of Ruleville, Mississippi, to the east side of the Sunflower River Bridge is designated and shall be known as the Robert L. "Bob" Crook Memorial Highway.

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching that segment of Mississippi Highway 8.

SOURCES: Laws, 2012, ch. 541, § 4, eff from and after July 1, 2012.

§ 65-3-71.191. "Mississippi Heritage Highway" designated.

(1) U.S. Highway 82 in the State of Mississippi is designated and shall be known as the "Mississippi Heritage Highway."

(2) The municipalities and counties along the highway shall designate historical sites and events along the Mississippi Heritage Highway to offer to tourists and targeted groups a structured tour of historical sites and events.

(3) The Mississippi Department of Transportation shall purchase appropriate Mississippi Heritage Highway markers from any of its available funds. The texts for the historical markers shall be approved by the department and the department shall erect and maintain the markers.

SOURCES: Laws, 2012, ch. 541, § 5, eff from and after July 1, 2012.

§ 65-3-71.192. "Veterans' Memorial Highway" designated.

(1) That segment of Mississippi Highway 15 within Chickasaw County and the corporate limits of the City of Houston is designated and shall be known as the "Veterans' Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SOURCES: Laws, 2012, ch. 408, § 2, eff from and after July 1, 2012.

ADDITIONS TO AND DELETIONS FROM STATE SYSTEM AFTER 1971

Sec.
65-3-72 through 65-3-95. Repealed.
65-3-97. Four-Lane Highway Program.
65-3-99. Localities to retain jurisdiction for construction and maintenance purposes over local highways, roads or streets added by legislation to state highway system until brought up to construction standards required by the Transportation Commission and the Department of Transportation.
65-3-101 through 65-3-131. Repealed.
65-3-133. Additions to and deletions from State Highway System; Laws, 1999, ch. 531.
65-3-135. Deletion from state highway system; Laws, 2000, ch. 562.
65-3-137. Additions to and deletions from State Highway System; Chapter 574, Laws of 2000, as amended by Chapter 539, Laws of 2012.
65-3-139. Deletion from State Highway System: Northern District — Tippah County; Laws, 2002, ch. 582.
65-3-140. Deletion from State Highway System: Central District — Yazoo County — Laws, 2003, ch. 427.
65-3-140.1. Deletion from State Highway System: Central District — Copiah County — Laws 2005, ch. 304.
65-3-141. Addition to State Highway System: Northern District — Union County — Laws, 2002, ch. 582.
65-3-143.1. Add segments in Southern District — Simpson County — to State Highway System.
65-3-143.2. Add segments in Northern District — Coahoma County — to State Highway System.
65-3-143.3. Add segment in Northern District — DeSoto County — to State Highway System.
65-3-143.4. Add segment in Northern District — Carroll County — to State Highway System.
65-3-143.5. Add segment in Central District — Kemper County — to State Highway System.
65-3-143.6. Add segment in Central District — Bolivar and Sunflower Counties — to State Highway System.
65-3-143.7. Add segment in Southern District — Jefferson Davis County — to the State Highway System.
65-3-143.8. Add segment in Central District — Rankin County — to State Highway System.
65-3-143.9. Add segment in Northern District — Union County — to State Highway System.

65-3-143.10. Add segment in Southern District — Marion County — to State Highway System.
65-3-143.11. Add segment in Northern District — Lowndes County — to State Highway System.
65-3-143.12. Deletion from State Highway System: Northern District - Itawamba County - Laws, 2007, ch. 577.
65-3-143.13. Deletion from State Highway System: Northern District - Tunica County - Laws, 2007, ch. 577.
65-3-143.14. Deletion from State Highway System: Northern District - Marshall County - Laws, 2008, ch. 374.
65-3-143.15. Deletion from State Highway System: Northern District - Alcorn County - Laws, 2009, ch. 353.
65-3-143.16. Add segment in Northern District - Pontotoc County - to State Highway System.

§§ 65-3-72 through 65-3-95. Repealed.

Repealed by Laws, 2000, ch. 574, § 11, eff from and after passage (May 20, 2000).

§ 65-3-72. [Laws, 1972, ch. 309, § 1; ch. 455, §§ 1-4; repealed, Laws, 1981, ch. 464, § 32; reenacted without change, Laws, 1985, ch. 537, § 22; reenacted without change, Laws, 1987, ch. 510, § 15, eff from and after July 1, 1987]

§ 65-3-73. [Laws, 1973, ch. 350, § 1, ch. 449, §§ 1-4; Laws, 1977, ch. 421; Laws, 1978, ch. 480, § 1; repealed, Laws, 1981, ch. 464, § 32; reenacted without change, Laws, 1985, ch. 537, § 23; reenacted without change, Laws, 1987, ch. 510, § 16, eff from and after July 1, 1987]

§ 65-3-74. [Laws, 1974, ch. 501, §§ 1-5; repealed, Laws, 1981, ch. 464, § 32; reenacted without change, Laws, 1985, ch. 537, § 24; reenacted without change, Laws, 1987, ch. 510, § 17, eff from and after July 1, 1987]

§ 65-3-75. [Laws, 1975, ch. 371; ch. 406, §§ 1-3; Laws, 1984, ch. 344; reenacted without change, Laws, 1985, ch. 537, § 25; reenacted without change, Laws, 1987, ch. 510, § 18, eff from and after July 1, 1987]

§ 65-3-76. [Laws, 1976, ch. 353, §§ 1-3, ch. 414, §§ 1-3; repealed, Laws, 1981, ch. 464, § 32; reenacted without change, Laws, 1985, ch. 537, § 26; reenacted without change, Laws, 1987, ch. 510, § 19, eff from and after July 1, 1987]

§ 65-3-77. [Laws, 1977, ch. 422, eff from and after passage (approved March 31, 1977)]

§ 65-3-78. [Laws, 1978, ch. 304, § 1, ch. 309, § 1, ch. 315, §§ 1, 2, eff from and after passage (approved February 22, 1978)]

§ 65-3-79. [Laws, 1979, ch. 342, §§ 1-4; Laws, 1979, ch. 459; Laws, 1979, ch. 498; Laws, 1979, ch. 499; repealed, Laws, 1981, ch. 464, § 32; reenacted without change, Laws, 1985, ch. 537, § 27; reenacted without change, Laws, 1987, ch. 510, § 20, eff from and after July 1, 1987]

§ 65-3-81. [Laws, 1980, ch. 345; ch. 405; ch. 538; ch. 539, eff from and after passage (approved May 26, 1980)]

§ 65-3-83. [Laws, 1981, ch. 478, § 1, eff from and after passage (approved April 15, 1981)]

§ 65-3-85. [Laws, 1983, ch. 352; Laws, 1983, ch. 417, §§ 1-4; Laws, 1983, ch. 462, eff from and after passage (approved April 4, 1983)]

§ 65-3-87. [Laws, 1983, ch. 430, §§ 1-4, eff from and after passage (approved March 29, 1983)]

§ 65-3-89. [Laws, 1984, ch. 304; Laws, 1984, ch. 323; Laws, 1984, ch. 345; Laws, 1984, ch. 483; Laws, 1984, ch. 484, eff from and after passage (approved May 14, 1984)]

§ 65-3-91. [Laws, 1985, ch. 318, §§ 1-3; Laws, 1985, ch. 426, §§ 1-3 ; Laws, 1985, ch. 532; Laws, 1987, ch. 322, § 3, eff July 1, 1987]

§ 65-3-93. [Laws, 1986, ch. 334, §§ 1-3, eff from and after passage (approved March 19, 1986)]

§ 65-3-95. [Laws, 1987, ch. 311, §§ 1-4, eff from and after passage (approved March 11, 1987)]

Editor's Note — Former §§ 65-3-72 through 65-3-95 added and deleted certain highway segments to and from the designated state highway system.

§ 65-3-97. Four-Lane Highway Program.

(1) In addition to and including all other highways designated as a part of the state highway system, there is hereby designated as a part thereof a four-lane highway system to connect various areas of the state with interstate and primary highways. For the segments described in subsection (3) of this section, the Mississippi Department of Transportation shall construct and reconstruct four-lane highways, that is, not less than two (2) lanes for traffic flowing in each direction, along the routes designated in this section.

(2) In the construction and reconstruction of the four-lane highway system designated in subsection (3) of this section, the Mississippi Department of Transportation may utilize the roadway of any existing highway under its jurisdiction and control and shall do so when such utilization is feasible, provided that such highways which are utilized shall be constructed to current standards for such roadways. When it is not feasible to utilize existing designated highways, the Transportation Department shall relocate such highways and construct entirely new facilities whether in urban or rural areas.

(3) Construction of the four-lane highway system designated in this subsection shall commence, proceed and be performed by the Mississippi Department of Transportation strictly in accordance with the following set of priorities established for the letting of contracts on and along various segments thereof:

(a) Of the following group of highway segments not less than fifteen percent (15%) of all contracts necessary to be let for completion of all segments within the group shall be let by June 30, 1988, not less than thirty percent (30%) of such contracts shall be let by June 30, 1989, not less than fifty percent (50%) of such contracts shall be let by June 30, 1990, not less than seventy percent (70%) of such contracts shall be let by June 30, 1991, not less than ninety percent (90%) of such contracts shall be let by June 30, 1992, and one hundred percent (100%) of such contracts shall be let by June 30, 1993:

(i) Highway segments along or near U.S. 45 beginning at the Clarke/Lauderdale county line and extending northerly to I-59; then beginning at Macon and extending northerly to Brooksville; then beginning at Columbus Air Force Base and extending northerly to Aberdeen; then beginning at U.S. 278 and extending northerly to Shannon; then beginning at Saltillo and extending northerly to Corinth.

(ii) Highway segments along or near U.S. 45A beginning at U.S. 82 and extending northerly to West Point; then beginning four (4) miles south of Okolona and extending northerly to Shannon.

(iii) A highway segment along or near U.S. 49W beginning at U.S. 49 and extending westerly through Yazoo City to the Yazoo River.

(iv) A highway segment along or near U.S. 49W beginning at Inverness and extending northerly to Indianola.

(v) A highway segment along or near U.S. 61 beginning at Port Gibson and extending northerly to the four-lane south of Vicksburg.

(vi) Highway segments along or near U.S. 72 beginning at or near Mt. Pleasant and extending southeasterly to Mississippi 5; then beginning at Walnut and extending southeasterly to Corinth; then beginning at Strickland and extending southeasterly to Burnsville.

(vii) Highway segments along or near U.S. 78 beginning at Holly Springs and extending southeasterly to the New Albany bypass; then beginning at Mississippi 25 and extending southeasterly to Tremont.

(viii) Highway segments along or near U.S. 82 beginning at I-55 and extending easterly to Kilmichael; then beginning at Eupora and extending easterly to Mathiston; then beginning at Mississippi 12 and extending easterly to the Alabama state line.

(ix) A highway segment along or near U.S. 84 beginning at I-59 and extending easterly to the Jones/Wayne county line.

(x) Highway segments along or near U.S. 98 beginning at Columbia and extending easterly to the Marion/Lamar county line; then beginning at U.S. 49 and extending southeasterly to the Alabama state line.

(b) Of the following group of highway segments not less than five percent (5%) of all contracts necessary to be let for completion of all segments within the group shall be let by June 30, 1991, not less than ten percent (10%) of such contracts shall be let by June 30, 1992, not less than twenty-five percent (25%) of such contracts shall be let by June 30, 1993, not less than forty percent (40%) of such contracts shall be let by June 30, 1994, not less than fifty-five percent (55%) of such contracts shall be let by June 30, 1995, not less than seventy percent (70%) of such contracts shall be let by June 30, 1996, not less than eighty-five percent (85%) of such contracts shall be let by June 30, 1997, and one hundred percent (100%) of such contracts shall be let by June 30, 1998:

(i) Highway segments along or near Mississippi 25 beginning at Mississippi 471 and extending northeasterly to Mississippi 43; then beginning at the Winston/Oktibbeha county line and extending northeasterly to Starkville.

(ii) A highway segment along or near Mississippi 63 beginning at the Jackson/George county line and extending northerly to Lucedale.

(iii) A highway segment along or near Mississippi 302 beginning at I-55 in Southaven and extending easterly to U.S. 72 at or near Mt. Pleasant.

(iv) Highway segments along or near U.S. 45 beginning at the Alabama state line and extending northerly to the Clarke/Lauderdale county line; then beginning at Lauderdale and extending northerly to Macon; then beginning at Aberdeen and extending northerly to U.S. 278.

(v) A highway segment along or near U.S. 45A beginning at West Point and extending northerly to four (4) miles south of Okolona.

(vi) A highway segment beginning at Brooksville along or near U.S. 45 or U.S. 45A and extending northerly to U.S. 82, such segment having been designated by the Transportation Commission pursuant to the provisions of paragraph (1)(c) of this section.

(vii) A highway segment along or near U.S. 49W beginning at the Yazoo River and extending northerly to Inverness.

(viii) Highway segments along or near U.S. 61 beginning at the Louisiana state line and extending northerly to the Wilkinson/Adams county line; then beginning at Washington and extending northerly to Port Gibson; then beginning at Merigold and extending northerly to Shelby; then beginning at the north end of the Clarksdale bypass and extending northerly to the Tennessee state line.

(ix) A highway segment along or near U.S. 72 beginning at Mississippi 5 and extending southeasterly to Walnut.

(x) A highway segment along or near U.S. 78 beginning at Tremont and extending southeasterly to the Alabama state line.

(xi) Highway segments along or near U.S. 82 beginning at the Montgomery/Webster county line and extending easterly to Eupora; then beginning at Mathiston and extending easterly to Starkville.

(xii) Highway segments along or near U.S. 84 beginning at Leesdale and extending easterly to Roxie; then beginning at Auburn Road and extending easterly to I-55; then beginning at the east end of the Brookhaven bypass and extending easterly to Prentiss; then beginning at the Jones/Covington county line and extending easterly to Horse Creek; then beginning at the Jones/Wayne county line and extending easterly to Waynesboro.

(xiii) Highway segments along or near U.S. 98 beginning at the Pike/Walthall county line and extending easterly to Columbia; then beginning at the Marion/Lamar county line and extending easterly to the four-lane west of Hattiesburg.

(c) Of the following group of highway segments not less than ten percent (10%) of all contracts necessary to be let for completion of all segments within the group shall be let by June 30, 1996, not less than twenty percent (20%) of such contracts shall be let by June 30, 1997, not less than forty percent (40%) of such contracts shall be let by June 30, 1998, and one hundred percent (100%) of such contracts shall be let by June 30, 1999:

(i) A highway segment along or near Mississippi 25 beginning at Mississippi 43 and extending northeasterly to the Winston/Oktibbeha county line.

(ii) A highway segment along or near Mississippi 63 beginning at Lucedale and extending northerly to U.S. 45 at State Line.

(iii) A highway segment along or near U.S. 61 beginning at Shelby and extending northerly to U.S. 49.

(iv) A highway segment along or near U.S. 82 beginning at Kilmichael and extending easterly to the Montgomery/Webster county line.

(v) Highway segments along or near U.S. 84 beginning at Eddiceton and extending easterly to Auburn Road; then beginning at Prentiss and extending easterly to Collins; then beginning at Waynesboro and extending easterly to the Alabama state line.

(4)(a) The Mississippi Department of Transportation shall construct and reconstruct four-lane highways, that is, not less than two (2) lanes for traffic flowing in each direction along the following routes:

(i) Highway segments along or near Mississippi 15 beginning at I-10 and extending northerly to the Mississippi/Tennessee state line.

(ii) A highway segment along or near Mississippi 6 beginning at or near U.S. 61 and extending easterly to or near I-55 at or near Batesville.

(iii) A highway segment along or near Mississippi 6 beginning at or near Mississippi 9 and extending easterly to U.S. 45.

(iv) A highway segment along or near Mississippi 25 beginning at or near U.S. 45 and extending northerly to or near Iuka, and the portion of such segment that is described in Section 65-3-137 shall be constructed in compliance with such section.

(v) A highway segment along or near Mississippi 43 beginning at or near the Stennis Airport and extending northerly and northwesterly to the Hancock/Pearl River county line.

(b)(i) Contracts for the highway segments designated in this subsection and subsection (5) of this section may be let after the letting of all contracts necessary for completion of the highway segments designated in subsection (3) of this section; however, contracts for the highway segments described in this subsection may be let concurrently with the letting of contracts for highway segments designated in subsection (3) of this section if funds are available and are not necessary to be utilized for the segments designated in subsection (3) of this section.

(ii) Contracts for highway segments designated in this subsection shall have priority over contracts for highway segments that have the same level of service in any priority schedule adopted by the Transportation Commission under subsection (5) of this section.

(iii) It is the intention of the Legislature that no contracts for highway segments in subsections (4) and (5) of this section may be let before all highway segments under subsection (3) of this section have been let for contract.

(c) In the construction and reconstruction of the four-lane highway segments designated in this subsection, the Mississippi Department of Transportation may utilize the roadway of any existing highway under its jurisdiction and control and shall do so when such utilization is feasible, provided that such highways which are utilized shall be constructed to current standards for such roadways. When it is not feasible to utilize existing designated highways, the Transportation Department shall relocate such highways and construct entirely new facilities whether in urban or rural areas.

(5)(a)(i) The Transportation Commission shall construct, upgrade or improve the segments described in paragraphs (f), (g) and (h) of this subsection, the projects described in Section 65-39-1 and other highway construction under its jurisdiction, in accordance with a priority schedule based upon a needs analysis performed by the Mississippi Department of Transportation. The priority schedule shall be reviewed annually by the Department of Transportation to determine if the priority schedule is in need of revision. The analytic methods and procedures utilized by the Mississippi Department of Transportation to perform the needs analysis shall conform to current standards and practices of the transportation sciences and industry as promulgated in appropriate documentation of the United States Department of Transportation, the Transportation Research Board, the American Association of Highway and Transportation Officials, and other recognized and relevant bodies. Such conforming methodologies shall be applied utilizing considerations appropriate to the specific situation and may include capacity analysis, traffic counting, traffic projection, cost estimation, benefit-cost analysis, user cost analysis, land use projections and similar analyses and projections, so that all analyses are completed with the best tools available at the time of the analysis. The Transportation Commission may establish and publish standards for setting the priorities and in so doing shall consider other factors, not in violation of federal law, as the Transportation Commission may consider relevant, including, but not limited to, economic development, safety and highways that may serve as hurricane evacuation routes. The first determinant for construction of highway segments shall be the year of need. "Year of need" for purposes of this section is the year in which the level of service on a segment is projected to deteriorate to an unacceptable level. For segments with the same year of need, prioritization shall be based on the volume to capacity ratio and the daily traffic volume. In the event that the Transportation Commission deviates from the recommended priorities presented through the needs analysis, the commission shall spread the specific reasons for the deviation on its minutes. The priority schedule shall reflect immediate needs which shall be construction, upgrades and improvements to the state highway system needed over a five-year period based upon the criteria established in this paragraph which shall be reviewed annually by the Mississippi Department of Transportation. The priority schedule shall project mid-range needs which shall include highway corridors that are projected to reach an unacceptable level of service within ten (10) years after each annual review of the priority schedule. The priority schedule shall project long-range needs which shall include highway corridors that are projected to reach an unacceptable level of service ten (10) years or more after each annual review of the priority schedule.

(ii) Notwithstanding any other provisions of this section to the contrary, projects for the construction, reconstruction, improvement or modification of any highway or highway segment required to be performed by the Mississippi Transportation Commission and/or the Mississippi Department of Transportation by any act of the Legislature that was enacted and became effective before July 1, 2002, shall be given priority over any other projects that are authorized or directed to be performed by the Mississippi Transportation Commission and/or the Mississippi Department of Transportation under the provisions of this section or under the provisions of any other legislation that is enacted or becomes effective after July 1, 2002.

(b) On or before October 1, 2005, and on or before October 1 of each year thereafter, the Transportation Commission shall present to the Highways and Transportation Committee of the Senate and the Transportation Committee of the House of Representatives the schedule of priorities developed as provided for in paragraph (a) of this subsection reflecting the proposed schedule of construction for segments. The proposed schedule shall be followed until later modified based on the criteria established in paragraph (a) of this subsection.

(c) The Transportation Commission shall begin letting projects based upon the prioritized schedule of need not later than January 1, 2006; however, the commission shall have the flexibility to adjust the sequencing of projects as may be required in order to maximize the utilization of available funding or to accommodate the relative requirement of each individual project. Nothing in this section shall be construed to authorize the Transportation Commission to let contracts for projects based upon the prioritized schedule of need before completion of the letting of contracts under subsection (3)(c) of this section.

(d) Funds deposited into the special funds created in Section 65-39-3 or 65-39-17 may only be expended as provided for in Sections 65-39-1 through 65-39-37; however, funds otherwise generated may be expended on segments included in Section 65-39-1 that are in the prioritized schedule established pursuant to this subsection, as well as other projects included in such schedule.

(e) For fiscal year 2006 and each fiscal year thereafter, the Transportation Commission shall dedicate not less than Two Hundred Million Dollars ($200,000,000.00) in state and/or federal funds to fund the program established by subsections (4) and (5) of this section.

(f) The Transportation Commission and the Mississippi Department of Transportation shall, in addition to all other projects, consider the following as immediate needs when establishing the initial priority schedule pursuant to paragraph (a) of this subsection:

(i) An Interstate highway segment along or near I-55 beginning at or near Hernando and extending northerly to the Tennessee state line.

(ii) A highway segment along or near Mississippi 304 beginning at or near U.S. 61 and extending easterly to or near I-55.

(iii) A highway segment along or near U.S. 82 beginning at the east end of the proposed Greenville River Bridge and extending northeasterly to or near Stoneville.

(iv) A highway segment along or near Mississippi 278 beginning at or near Amory and extending westerly to U.S. 45.

(v) A highway segment along or near Mississippi 41 beginning at U.S. 45 and extending westerly to or near Okolona.

(vi) A highway segment along or near Mississippi 9 beginning at Mississippi 6 north of Pontotoc and extending northerly to U.S. 78.

(vii) A highway segment along or near Mississippi 25 beginning at or near Itawamba county line and extending northerly to or near U.S. 72.

(viii) A highway segment along or near Mississippi 35 beginning at the end of the existing four-lane at Forest and extending northerly to or near Hillsboro.

(ix) A highway segment along or near Mississippi 35 beginning at or near Mississippi 487 and extending northerly to or near Mississippi 25.

(x) A highway segment along or near Mississippi 16 beginning at or near I-55 and extending easterly to or near Philadelphia.

(xi) An Interstate highway segment along or near I-20 beginning at the Mississippi River Bridge and extending easterly to or near U.S. 61 north.

(xii) A highway segment consisting of two (2) lanes of construction and two (2) lanes of right-of-way acquisition beginning at the Port of Vicksburg and extending easterly to or near U.S. 61.

(xiii) An Interstate highway segment along or near I-20 beginning at or near the Clinton Raymond Road Interchange and extending easterly to or near the Mississippi 18 Interchange.

(xiv) An Interstate highway segment along or near I-20 beginning at or near I-55 south and extending easterly to or near I-55 north.

(xv) An Interstate highway segment along or near I-55 beginning at or near I-20 and extending northerly to or near the High Street Interchange.

(xvi) An Interstate highway segment along or near I-55 beginning at or near the Elton Road Interchange and extending northerly to or near I-20.

(xvii) An Interstate highway segment along or near I-59 beginning at or near U.S. 98 and extending northerly to or near U.S. 49.

(xviii) A highway segment along or near Mississippi 43 beginning at or near the Hancock county line and extending westerly to or near I-59.

(xix) An Interstate highway segment along or near Canal Road (Mississippi 601) beginning at or near U.S. 90 and extending northerly to or near I-10.

(xx) An Interstate highway segment consisting of four (4) lanes along or near U.S. 49 beginning at or near I-10 and extending northerly to or near Lyman; then beginning at or near I-59 and extending westerly to or near U.S. 49; then beginning at or near I-59 and extending northwesterly to U.S. 49; then beginning at or near Florence and extending northerly to or near I-20.

(xxi) A highway segment along or near U.S. 49 beginning along or near Lyman and extending northerly to I-20 with geometric type improvements along the entire corridor at or near the One Hundred Million Dollar ($100,000,000.00) estimate.

(xxii) An Interstate highway along or near I-20/59 beginning at or near the merger of I-20 and I-59 and extending easterly to or near Mississippi 39.

(xxiii) A highway segment along or near Mississippi 67 beginning at or near I-10 and extending northwesterly to or near U.S. 49.

(xxiv) A highway segment along or near Mississippi 605 beginning at or near I-10 and extending northerly to or near Mississippi 67.

(xxv) A highway segment along or near Mississippi 43 beginning at the end of the existing four-lane and extending northerly to or near Kiln.

(xxvi) A highway segment along or near Mississippi 24/Mississippi 48 beginning at or near Mississippi 33 south and extending easterly to or near Mississippi 33 north.

(xxvii) A highway segment along or near Mississippi 24/Mississippi 48 beginning at or near Mississippi 569 and extending easterly to or near I-55.

(xxviii) A highway segment along or near Mississippi 27 beginning at or near I-55 and extending northerly to or near I-20.

(xxix) A highway segment along or near Mississippi 57 beginning at or near I-10 and extending northerly to or near Vancleave.

(xxx) A highway segment along or near Mississippi 19 beginning at or near Collinsville and extending northerly to or near Philadelphia.

(xxxi) A highway segment along or near Mississippi 12 beginning at or near I-55 and extending to or near U.S. 51.

(xxxii) A highway segment along or near Mississippi 18 beginning at or near Mississippi 27 and extending northerly to or near the end of the four-lane at or near Raymond.

(xxxiii) A highway segment along or near Mississippi 28 beginning at or near Fayette and extending easterly to I-55.

(xxxiv) A highway segment along or near U.S. 61 beginning at or near Redwood and extending northerly to or near Leland.

(xxxv) A highway segment along or near Mississippi 24/Mississippi 48 beginning at or near Woodville and extending easterly to or near Mississippi 569.

(xxxvi) A highway segment along or near Mississippi 18 beginning at or near U.S. 61 and extending northerly to or near Mississippi 27.

(xxxvii) A highway segment consisting of four (4) lanes along or near Mississippi 12 beginning at or near U.S. 51 and extending to or near Kosciusko.

(xxxviii) A highway segment along or near Mississippi 25 beginning at Iuka and extending northerly to the Mississippi/Tennessee state line.

(xxxix) A highway segment along or near Mississippi 25 beginning at U.S. 45 Alternate and extending northeasterly to or near Aberdeen.

(xl) A highway segment along or near Mississippi 7 beginning at I-55 and extending northeasterly to Mississippi 9W.

(xli) A highway segment along or near Mississippi 7 beginning at Greenwood and extending northeasterly to Grenada.

(xlii) A highway segment along or near U.S. 98 beginning at or near U.S. 84 at or near Meadville and extending easterly to or near I-55.

(xliii) A highway segment along or near Mississippi 35 beginning at the Mississippi/Louisiana state line and extending northerly to or near U.S. 98 at or near Foxworth.

(xliv) A highway segment along or near Mississippi 53 beginning at or near U.S. 49 and extending northwesterly to or near I-59.

(xlv) A highway segment along or near Mississippi 603 beginning at or near Mississippi 43 and extending northerly to or near Mississippi 53.

(g) The Transportation Commission and the Mississippi Department of Transportation shall, in addition to all other projects, consider the following as mid-range needs when establishing the initial priority schedule pursuant to paragraph (a) of this section:

(i) A highway segment along or near U.S. 49 beginning at U.S. 61 and extending northwesterly to the Arkansas state line.

(ii) A highway segment along or near Mississippi 8 beginning at or near Rosedale and extending easterly to or near Grenada.

(iii) A highway segment along or near Mississippi 25 beginning at the end of the existing four-lane and extending northerly to or near the Tishomingo county line.

(iv) A highway segment along or near Mississippi 25 beginning at or near Mississippi 23 and extending northerly to or near U.S. 78.

(v) A highway segment along or near Mississippi 12 beginning at or near Kosciusko and extending northeasterly to or near Ethel; then beginning at or near Weir and extending northeasterly to or near Mississippi 15; then beginning at or near Longview and extending northeasterly to or near Starkville.

(vi) A highway segment along or near Mississippi 35 beginning at or near Hillsboro and extending northerly to or near Mississippi 487.

(vii) A highway segment along or near Mississippi 35 beginning at or near Mississippi 25 and extending northerly to or near I-55.

(viii) A highway segment along or near Mississippi 16 beginning at or near Mississippi 25 and extending easterly to or near BIA 22.

(ix) A highway segment along or near Mississippi 22 beginning at or near Edwards and extending northeasterly to or near Canton.

(x) An Interstate highway segment along or near I-55 beginning at or near I-220 and extending northerly to or near Canton.

(xi) An Interstate highway segment along or near I-20 beginning at or near U.S. 61 north and extending easterly to or near the Flowers Interchange.

(xii) An Interstate highway segment along or near I-20 beginning at or near the Mississippi 18 Interchange and extending easterly to or near I-55 south.

(xiii) An Interstate highway segment along or near I-20 beginning at or near I-55 north and extending easterly to or near U.S. 49.

(xiv) A highway segment along or near Mississippi 43 beginning at or near Kiln and extending northwesterly to or near the Pearl River county line.

(xv) A highway segment along or near Mississippi 12 beginning at or near Ethel and extending northeasterly to or near Weir; then beginning at or near Mississippi 15 and extending northeasterly to Longview.

(xvi) A highway segment along or near Mississippi 27 beginning at the Mississippi/Louisiana state line and extending northerly to or near Crystal Springs.

(xvii) A highway segment along or near Mississippi 33 beginning at or near Fayette and extending southerly to or near the Mississippi/Louisiana state line.

(xviii) A highway segment along or near Mississippi 18 beginning at or near Bay Springs and extending northeasterly to or near Brandon.

(xix) A highway segment along or near Mississippi 24 beginning at or near Gloster and extending to or near Liberty.

(h) The Transportation Commission and the Mississippi Department of Transportation shall, in addition to all other projects, consider the following as long-range needs when establishing the initial priority schedule pursuant to paragraph (a) of this section:

(i) A highway segment along or near Mississippi 19 beginning at or near Mississippi 15 and extending northwesterly to or near Kosciusko.

(ii) An Interstate highway segment along or near I-55 beginning at or near Senatobia and extending northerly to Hernando.

(iii) An Interstate highway segment along or near I-20 beginning at or near the Flowers Interchange and extending easterly to or near Clinton Raymond Road Interchange.

(iv) An Interstate highway segment along or near I-20 beginning at or near the Brandon Crossgates Interchange and extending easterly to or near the Pelahatchie Mississippi 43 Interchange.

(v) An Interstate highway segment along or near I-55 beginning at or near the High Street Interchange and extending northerly to or near Mississippi 25.

(vi) An Interstate highway segment along or near I-55 beginning at or near Terry and extending northerly to or near the Elton Road Interchange.

(vii) An Interstate highway along or near I-20 beginning at or near Chunky and extending easterly to or near I-59.

(viii) An Interstate highway along or near I-20/59 beginning at or near Mississippi 39 and extending easterly to or near Toomsuba.

(ix) A highway segment along or near Mississippi 16 beginning at or near I-55 and extending to or near U.S. 49.

(x) A highway segment along or near Mississippi 4 beginning at or near U.S. 61 and extending easterly to or near I-55 at or near Senatobia.

(xi) A roadway segment along or near Lakeshore Road beginning at or near U.S. 90 and extending northerly to or near South Beach Boulevard.

(xii) A highway segment beginning at or near Ellisville and extending northerly to or near the northern city limits of Laurel.

(xiii) An Interstate highway segment along or near I-110 beginning at or near U.S. 90 and extending northerly to or near I-10.

(xiv) A highway segment along or near Mississippi 16 beginning at or near Scooba and extending westerly to or near DeKalb.

(xv) A highway segment along or near U.S. 49 East beginning at or near Yazoo City and extending northerly to or near U.S. 82.

(xvi) A highway segment along or near Mississippi 7 beginning at or near Oxford and extending northerly to the Mississippi/Tennessee state line.

(xvii) A highway segment along or near Mississippi 57 beginning at or near Vancleave and extending northerly to or near U.S. 98.

(xviii) A highway segment along or near Mississippi 35 beginning at or near I-55 and extending northerly to Mississippi 6.

(xix) A highway segment along or near Mississippi 35 beginning at or near U.S. 98 and extending northerly to I-20.

(6) The commission shall, in addition to other projects, consider the following highway segments for improvements and highway modifications, including, but not limited to, straightening and realignment of the existing roadway, the addition of passing lanes and the widening of existing lanes, the addition of turn lanes and improvement of shoulders:

(a) Mississippi 3 from U.S. 61 to U.S. 49 West.

(b) Mississippi 3 from Tutwiler to U.S. 61.

(c) Mississippi 7 from Mississippi 9 West to I-55.

(d) Mississippi 7 from U.S. 82 to I-55.

(e) Mississippi 8 from U.S. 49 West to I-55.

(f) Mississippi 9 from Mississippi 7 to U.S. Highway 82.

(g) Mississippi 9 from Mississippi 6 to U.S. 78.

(h) Mississippi 9 from Mississippi 7 to Mississippi 300.

(i) Mississippi 12 from U.S. 61 to I-55.

(j) Mississippi 12 from U.S. 82 to the Mississippi/Alabama state line.

(k) Mississippi 12 from the city limits of Ackerman to the city limits of Sturgis.

(*l*) Mississippi 12 from U.S. 49 West to U.S. 61.

(m) Mississippi 12 from Kosciusko to I-55.

(n) Mississippi 15 from I-10 to U.S. 98.

(o) Mississippi 15 from Mississippi 18 to I-20.

(p) Mississippi 16 from Mississippi 39 to U.S. 45.

(q) Mississippi 16 from Mississippi 39 to Philadelphia.

(r) Mississippi 18 from U.S. 61 to the city limits of Utica.

(s) Mississippi 18 from U.S. 45 to U.S. 80.

(t) Mississippi 24 from Mississippi 33 to Mississippi 48.

(u) Mississippi 24 from U.S. 61 to Fort Adams.

(v) Mississippi 26 from Mississippi 43 to Mississippi 63.

(w) Mississippi 27 from the Mississippi/Louisiana state line to I-55.

(x) Mississippi 28 from Mississippi 33 to I-55.

(y) Mississippi 28 from U.S. 51 to U.S. 49.

(z) Mississippi 28 from U.S. 84 to U.S. 49.

(aa) Mississippi 33 from U.S. 61 to the Mississippi/Louisiana state line.

(bb) Mississippi 35 from U.S. 98 to I-20.

(cc) Mississippi 39 from DeKalb to the Meridian Naval Air Station.

(dd) Mississippi 42 from U.S. 84 to U.S. 49.

(ee) Mississippi 43 from Mississippi 26 to Picayune.

(ff) Mississippi 48 from Mississippi 35 to U.S. 51.

(gg) Mississippi 50 from Mississippi 15 to the Mississippi/Alabama state line.

(hh) Mississippi 69 from Columbus to the Mississippi/Alabama state line.

(ii) Mississippi 389 from Starkville to Mississippi 15.

(jj) Mississippi 469 from U.S. 49 to Mississippi 28.

(kk) Mississippi 469 from U.S. 49 to Mississippi 468.

(*ll*) Mississippi 547 from Mississippi 28 to U.S. 61.

(mm) Mississippi 550 from Mississippi 28 to I-55.

(nn) Mississippi 563 from U.S. 61 to Mississippi 33.

(oo) Mississippi 567 from Mississippi 24 to U.S. 98.

(pp) Mississippi 569 from Liberty to Mississippi 570.

(qq) Mississippi 570 from Summitt to Smithdale.

(rr) Mississippi 589 from Liberty to I-55.

(ss) Mississippi 589 from U.S. 98 to I-59.

(tt) Mississippi 603 from I-10 to Kiln/Delisle Road.

(uu) Old U.S. 45 beginning in the City of Meridian at or near the old Coca-Cola Company and extending northerly approximately two (2) miles to just beyond the Town of Marion.

(vv) U.S. 49 East from Yazoo City to Tutwiler.

(ww) U.S. 49 from Tutwiler to Clarksdale.

(xx) U.S. 49 from Indianola to Clarksdale.

(7) The Mississippi Transportation Commission shall conduct a feasibility study and prepare a conceptual design for a thoroughfare that encircles the City of Hattiesburg.

(8) The construction priorities established in this section shall not be construed as prohibiting the completion of highway segments which, on July 1, 1987, are included in the current three-year plan under Section 65-1-141, and for which, on July 1, 1987, grade and drainage has been completed or contracts for grade and drainage have been let. Nothing shall preclude the construction of fully controlled access highways.

(9) Contracts may be let and construction may commence and be performed concurrently on any of the highway segments designated in subsections (3), (4) and (5) of this section, notwithstanding the priorities established for the letting of contracts on the various segments designated therein, provided that funds are available and, provided that, at all times, the percentages of all contracts required to be let on the segments designated in subsection (3) of this section are, in fact, let no later than the dates established therein.

(10)(a) All highway construction and reconstruction authorized under this section shall be performed by contract let on competitive bid in the manner provided by statute; however, highway segments shall be constructed in lengths of not less than ten (10) miles.

(b) It is the intent of the Legislature that not less than ten percent (10%) of the amounts authorized to be expended for construction and reconstruction of the four-lane highway segments designated in this section shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals. The term "socially and economically disadvantaged individuals" shall have the meaning ascribed to such term under Section 8(d) of the Small Business Act (15 USCS, Section 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for the purposes of this paragraph (b).

(11)(a) Notwithstanding the provisions of subsection (10)(a) of this section, the Mississippi Transportation Commission may construct highway segments of less than ten (10) miles in length if:

(i) The segment as described in subsection (3) or (4) of this section or the schedule of priorities established in subsection (5) of this section is less than ten (10) miles in length;

(ii) The segment will connect two (2) existing four-lane highways;

(iii) The segment will connect an existing four-lane highway with an incorporated municipality;

(iv) The segment will connect an existing four-lane highway with a river, the state boundary or any other natural or man-made barrier;

(v) For a particular project, the costs of constructing a single segment of at least ten (10) miles in length would greatly exceed the aggregate costs of constructing two (2) or more segments; or

(vi) The segment is in an urban area and involves the completion of bypasses or other construction which will facilitate and accommodate major traffic movement.

(b) In any case in which the Transportation Commission authorizes the construction of a highway segment of less than ten (10) miles in length, the commission shall set forth and record in its official minutes explanation and justification therefor based upon one or more of the conditions prescribed in paragraph (a) of this subsection.

(12)(a) To assist in defraying the costs and expenses for construction, reconstruction and relocation of the four-lane highway system described in this section, the following revenues shall be paid out of such funds made available to the Transportation Commission and the Mississippi Department of Transportation:

(i) From matched federal funds or other federal funds, Thirty-two Million Dollars ($32,000,000.00) for fiscal year 1988, Twenty-five Million Dollars ($25,000,000.00) for fiscal year 1989, Thirty Million Dollars ($30,000,000.00) for fiscal year 1990 and fifty percent (50%) of such federal funds for fiscal year 1991 and each fiscal year thereafter; and

(ii) Five Million Dollars ($5,000,000.00) from matched federal bridge replacement funds for fiscal year 1988 and each fiscal year thereafter when the segments proposed for construction contain bridges that are eligible for replacement under the Federal Aid Bridge Replacement Program.

(b) Federal funds in addition to the federal funds specified in paragraph (a) of this subsection may be used for the construction, reconstruction and relocation of the four-lane highway system described in this section. Such federal funds may be utilized in lieu of state funding that would otherwise be utilized for such system; provided, however, that the annual total amount of funding for the construction, reconstruction and relocation of the highway system described in this section shall not be less than it would have otherwise been without the utilization of such additional federal funds.

(13) The Transportation Department shall submit a report to the Legislature by January 10 of each calendar year setting forth the current status of the construction program set forth in this section to include, but not be limited to, the following information:

(a) Specific segments on which engineering is being performed or has been completed;

(b) Specific segments for which right-of-way has been acquired or is being acquired;

(c) Specific segments for which construction contracts have been let;

(d) Specific segments on which construction is in progress;

(e) Specific segments on which construction has been completed;

(f) Projections for completion of the next step on each segment;

(g) Revenue derived for such construction program from each revenue source contained in Chapter 322, Laws of 1987, and in Chapter 557, Laws of 1994;

(h) For each fiscal year beginning in 1994, a detailed cash flow projection by source of program activities and an estimate of when the program will encounter a funding shortage due to costs exceeding original projections;

(i) A schedule of all complete and open-to-traffic highway segments and the related total cost of each segment;

(j) A schedule of all highway segments on which all contracts necessary for completion of the segments were not let as of the date required by law;

(k) A complete recap of all program receipts by source, and of all disbursements for the prior fiscal year and cumulative totals since the inception of the program as compared to projections; and

(*l*) A statement from the Department of Transportation regarding the status of the funding of the program based on agency cost experience and projections for the future.

The report shall be deemed submitted when ten (10) copies are submitted to the Clerk of the House of Representatives and ten (10) copies are submitted to the Secretary of the Senate.

SOURCES: Laws, 1987, ch. 322, § 1; Laws, 1994, ch. 557, § 1; Laws, 1998, ch. 545, § 1; Laws, 1999, ch. 370, § 1; Laws, 2000, ch. 358, § 1; Laws, 2002, ch. 582, § 1, eff from and after July 1, 2002.

Editor's Note — Laws 1987, ch. 322, referred to in subsection (g) affected 31 sections of the Code. For specific code sections affected by Chapter 322, see Statutory Tables Volume, Part 2, Table B, Allocation of Acts under Chapter 322, Laws, 1987.

Cross References — Apportionment of gasoline, diesel fuel or kerosene taxes for construction or reconstruction of highways designated under this section, see § 27-5-101.

Allocation of certain motor vehicle registration or tag fees to the credit of the State Highway Fund for the construction or reconstruction of highways designated under this section, see § 27-19-99.

Use of portion of motor vehicle taxes to defray expenses of highway construction and reconstruction designated in this section, see § 27-19-99.

Apportionment of taxes imposed by Motor Vehicle Dealer Tag Permit Law for construction or reconstruction of highways designated under this section, see § 27-19-325.

Apportionment of lubricating oil excise tax for construction or reconstruction of highways designated under this section, see § 27-57-37.

Distribution of proceeds derived from contractor taxes levied under § 27-65-21 on contracts for construction or reconstruction of highways designated under this section, see § 27-65-75.

Authorization for borrowing to cover costs of construction or reconstruction of highways designated under § 65-3-97, when revenues designated under §§ 27-5-101, 27-19-99, 27-19-325, 27-57-37, 27-65-75, and 65-3-97 are insufficient to fund construction priorities under Four-Lane Highway Program, see § 31-17-127.

Duty of State Transportation Commission to have State Department of Transportation maintain four-lane highway system, see § 65-1-59.

Interstate compact to make U.S. Highway 82 a four-lane highway, see §§ 65-3-301 et seq.

Federal Aspects — Section 8(d) of the Small Business Act is codified as 15 USCS § 637(d).

§ 65-3-99. Localities to retain jurisdiction for construction and maintenance purposes over local highways, roads or streets added by legislation to state highway system until brought up to construction standards required by the Transportation Commission and the Department of Transportation.

Whenever, by legislation, any highway, street or road under the jurisdiction of a county, municipality or other political subdivision of the state is placed on the designated state highway system under the jurisdiction of the Mississippi Transportation Commission, such highway, street or road shall become a state highway but, unless otherwise specifically provided by law, shall remain under the jurisdiction of the county, municipality or other political subdivision for construction and maintenance purposes until brought up to applicable construction standards as required by the commission and the Department of Transportation.

SOURCES: Laws, 2002, ch. 415, § 1, eff from and after passage (approved Mar. 19, 2002.)

ATTORNEY GENERAL OPINIONS

The Mississippi Department of Transportation (MDOT) has the duty to maintain portion of Highway 465 which is a substandard road on a levee until such time as the legislature removes it from the state highway system or enacts legislation which otherwise ends the responsibility of MDOT to maintain it. The Mississippi Highway Patrol is required to enforce traffic laws on Highway 465 as provided in Section 45-3-21. Pace, Aug. 7, 2006, A.G. Op. 06-0285.

§§ 65-3-101 through 65-3-131. Repealed.

Repealed by Laws, 2000, ch. 574, § 11, eff from and after passage (May 20, 2000).

§ 65-3-101. [Laws, 1987, ch. 341; Laws, 1987, ch. 344; Laws, 1987, ch. 409, §§ 1-3; Laws, 1987, ch. 508; Laws, 1990, ch. 396, § 1, eff from and after passage (approved March 13, 1990)]

§ 65-3-103. [Laws, 1988, ch. 329; Laws, 1988, ch. 441, §§ 1, 2, 3, eff from and after passage (approved April 25, 1988)]

§ 65-3-105. [Laws, 1989, ch. 324, §§ 1-3, eff from and after passage (approved March 6, 1989)]

§ 65-3-107. [Laws, 1990, ch. 372, §§ 1-3; Laws, 1990, ch. 431, §§ 1-3; Laws, 1990, ch. 482, §§ 1-3; Laws, 1990, ch. 578, §§ 1-3, eff from and after passage (approved April 9, 1990)]

§ 65-3-109. [Laws, 1991, ch. 549, §§ 1-3, eff from and after passage (approved April 12, 1991)]

§ 65-3-111. [Laws, 1991, ch. 493 §§ 1-3, eff from and after passage (approved April 1, 1991)]

§ 65-3-113. [Laws, 1992, ch. 424 §§ 1-3, eff from and after passage (approved May 4, 1992)]

§ 65-3-115. [Laws, 1993, ch. 464, § 1, eff from and after passage (approved March 17, 1993)]

§ 65-3-117. [Laws, 1994, ch. 326, § 1; Laws, 1994, ch. 464, §§ 1-3; Laws, 1994, ch. 630, §§ 1, 2; Laws, 1996, ch. 471, § 1, eff from and after passage (approved April 5, 1996)]

§ 65-3-119. [Laws, 1995, ch. 517, § 1, eff from and after passage (approved March 27, 1995)]

§ 65-3-121. [Laws, 1996, ch. 497, §§ 3, 4, eff from and after passage (approved April 11, 1996)]

§ 65-3-123. [Laws, 1997, ch. 562, § 5, eff from and after July 1, 1997]

§ 65-3-125. [Laws, 1997, ch. 562, § 6, eff from and after July 1, 1997]

§ 65-3-127. [Laws, 1997, ch. 562, § 7, eff from and after July 1, 1997]

§ 65-3-129. [Laws, 1998, ch. 550, § 1, eff from and after passage (approved April 13, 1998)]

§ 65-3-131. [Laws, 1998, ch. 579, §§ 1-3, eff from and after passage (approved April 17, 1998)]

Editor's Note — Former §§ 65-3-101 through 65-3-131 added and deleted certain highway segments to and from the designated state highway system.

§ 65-3-133. Additions to and deletions from State Highway System; Laws, 1999, ch. 531.

SECTION 1.

(1) The mileage of highway specifically designated in subsection (2) of this section is in addition to the total mileage limitation of eight thousand six hundred (8,600) miles that is set out in Section 65-3-3.

(2) The following highway is designated as a state highway and is placed under the jurisdiction of the Mississippi Transportation Commission for construction and maintenance; and such highway, together with the highways designated in Sections 65-3-3 and 65-3-5, and all other laws adding links to the designated state highway system, are declared to be the state highway system of Mississippi:

Southern District — Lawrence and Marion Counties:

An extension of Mississippi 44 beginning at its intersection with Mississippi 27 in Lawrence County and extending easterly across the Pearl River to Mississippi 13 in Marion County.

(3) The Mississippi Transportation Commission shall maintain, construct, take over and assume jurisdiction of the highway designated in subsection (1) of this section in the same manner and upon the same terms and conditions as set out in Sections 65-1-75, 65-3-3, 65-9-1 and 65-9-3.

SECTION 2.

The following highway is deleted from the state highway system, removed from the jurisdiction of the Mississippi Transportation Commission and returned to the jurisdiction of the Board of Supervisors of Wayne County:

Southern District — Wayne County:

Beginning on Mississippi 510 at the end of state maintenance south of Mathersville, thence southeasterly approximately 4.4 miles to Supervisors District 2 of Wayne County.

SECTION 3.

The following highway is deleted from the state highway system, removed from the jurisdiction of the Mississippi Transportation Commission and returned to the jurisdiction of the Board of Supervisors of Humphreys County:

Central District — Humphreys County:

Mississippi 435 (Silent Shade Road) beginning at a point on Mississippi 12 approximately 5 miles east of Belzoni, thence northeasterly along the Yazoo River for 9 miles; all in Humphreys County.

SECTION 4.

The Mississippi Department of Transportation shall perform preliminary engineering, acquire necessary right-of-way and construct or reconstruct and maintain as a four-lane highway the following segment of highway:

Northern District — Lafayette County:

Mississippi 7 beginning at its intersection with Mississippi 6 and extending southerly to its intersection with Mississippi 9 West.

SOURCES: Laws, 1999, ch. 531, §§ 1-4, eff from and after passage (approved Apr. 16, 1999.)

Editor's Note — Section 65-3-5 referred to in (2) was repealed by Laws, 2000, ch. 574, § 11, eff from and after May 20, 2000.

§ 65-3-135. Deletion from state highway system; Laws, 2000, ch. 562.

The following highway is deleted from the state highway system, removed from the jurisdiction of the Mississippi Transportation Commission and returned to the jurisdiction of the Board of Supervisors of Clay County:

Northern District — Clay County:

Mississippi Highway 389 beginning at the Clay/Oktibbeha County line and extending northerly to Montpelier.

SOURCES: Laws, 2000, ch. 562, § 1, eff from and after passage (approved May 20, 2000.)

§ 65-3-137. Additions to and deletions from State Highway System; Chapter 574, Laws of 2000, as amended by Chapter 539, Laws of 2012.

SECTION 1.

(1) The following highway is designated as a state highway and is placed under the jurisdiction of the Mississippi Transportation Commission for construction and maintenance when the City of Flowood provides necessary rights-of-way, including utility adjustments and relocations:

Central District — Rankin County:

Mississippi 468 — That two-lane portion of Mississippi 468 (Flowood Drive) beginning at Fourth Street in Flowood and extending northeasterly to Mississippi Highway 475, a distance of approximately two and two-tenths (2.2) miles.

(2) The segment described in subsection (1) of this section shall be a four-lane facility built to the design standards of the Mississippi Department of Transportation.

SECTION 2.

(1) The Mississippi Department of Transportation shall number, maintain, take over and assume jurisdiction of the following described highway segment, subject to the conditions prescribed in subsection (2) of this section.

Central District — Rankin County:

West Rankin Parkway (New Route) — Beginning at Mississippi 25 in the City of Flowood, thence south to U.S. 80 at Pearson Road in the City of Pearl, all in Rankin County.

(2) The Mississippi Department of Transportation may construct the highway segment described in subsection (1) of this section as a four-lane facility in accordance with current design standards; however, the City of Flowood, the City of Pearl, Rankin County and any private corporation jointly shall provide necessary engineering and rights-of-way, including utility adjustments and relocations.

SECTION 3.

The following highway is designated as a state highway and is placed under the jurisdiction of the Mississippi Transportation Commission for construction and maintenance; and such highway, together with the highways designated in Section 65-3-3, and all other laws adding links to the designated state highway system, are declared to be the state highway system of Mississippi:

Southern District — Jones County:

Mississippi 590 — Beginning at Mississippi 11 and extending easterly to Mississippi 29, a distance of approximately 1.3 miles.

SECTION 4.

(1) The following highway is designated as a state highway and is placed under the jurisdiction of the Mississippi Transportation Commission for construction and maintenance; and such highway, together with the highways designated in Section 65-3-3, and all other laws adding links to the designated state highway system, are declared to be the state highway system of Mississippi:

Central District — Newton County:

Decatur Street beginning on the north side of the intersection of Third Street and Decatur Street, and proceeding northward to the beginning of state maintenance south of U.S. Highway 80, all within the City of Newton.

(2) The Mississippi Transportation Commission shall maintain, construct, take over and assume jurisdiction of the highway designated in subsection (1) of this section in the same manner and upon the same terms

and conditions as set out in Sections 65-1-75, 65-9-1 and 65-9-3. However, the City of Newton shall not be required to provide to the Mississippi Department of Transportation any right-of-way with a width any greater than the width of right-of-way that existed at the time that the highway segment described in subsection (1) of this section was returned to the jurisdiction of the City of Newton.

SECTION 5.

The following highways are deleted from the state highway system, removed from the jurisdiction of the Mississippi Transportation Commission and returned to the jurisdiction of the governing authorities of the City of Newton:

Central District — Newton County:

(a) That section of old Mississippi 15 beginning south of Interstate 20 at the intersection of old Mississippi 15 and present Mississippi 15 and extending southwesterly for approximately .033 miles, all within the City of Newton; and

(b) That section of old Mississippi 15 located between U.S. Highway 80 and Decatur Street, all within the City of Newton.

SECTION 6.

(1) The Mississippi Department of Transportation may construct to department design standards, may perform such reconstruction as may be required to existing highways and may acquire by gift, purchase or eminent domain proceedings such property as may be necessary to provide four (4) lanes for traffic on and along the following location:

Central District — Lauderdale County:

Old U.S. Highway 45 beginning in the City of Meridian at or near the old Coca Cola Company and extending northerly approximately two (2) miles to just beyond the Town of Marion.

(2) Lauderdale County, the City of Meridian and the Town of Marion shall provide required right-of-way, remove all encroachments and bring up to Transportation Department standards existing roads and bridges along the route described in subsection (1) of this section.

(3) The mileage of highway specifically designated in subsection (1) of this section shall be under the jurisdiction of the Mississippi Transportation Commission for construction and maintenance and, together with the highways designated in Section 65-3-3, and all other laws adding links to the state designated highway system, are declared to be the state highway system of Mississippi.

SECTION 7.

(1)(a) That portion of Mississippi Highway 25 from south of Becker, Mississippi, to the Monroe/Itawamba County line shall be known as the "Monroe County Parkway."

(b) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching that portion of Mississippi Highway 25 described in this subsection.

(2) The portion of Mississippi Highway 25 described in subsection (1) of this section shall be constructed by the Mississippi Department of Trans-

portation as a fully-controlled access road; provided, however, beginning at a point four (4) miles south of the Monroe/Itawamba county line and extending north to the Monroe/Itawamba county line, the department is not required to construct a fully controlled access road. The Mississippi Department of Transportation is authorized to landscape the right-of-way of the portion of Mississippi Highway 25 described in subsection (1) of this section.

(3) If Mississippi Highway 25 is relocated to the east of Smithville, the Mississippi Department of Transportation shall maintain Mississippi Highway 25 as it existed on January 1, 2011, from a point at least four (4) miles south of the Monroe/Itawamba county line to a point at least two (2) miles north of the Monroe/Itawamba county line through Smithville and may designate it with an appropriate route number.

(4) The department is authorized to improve the existing Mississippi Highway 25 through Smithville by providing landscaping, appropriate signs and markers, and other enhancements.

(5) It shall be unlawful to construct or erect any advertisement or advertising structure within one thousand (1,000) feet of the right-of-way of the portion of Mississippi Highway 25 described in subsection (1) of this section. This subsection shall not apply to areas located within a municipality or to signs, displays or devices located on a building which carry only advertisements strictly related to the lawful use of the building.

(6) Mississippi Highway 25 shall intersect with U.S. Highway 278 at least five hundred (500) feet west of the eastern city limits of the City of Amory as such city limits existed on January 1, 2000.

(7) The Mississippi Department of Transportation is authorized to construct a four-lane connector road at a point at or near the northern city limits of the City of Amory between old Mississippi Highway 25 and the portion of Mississippi Highway 25 described in subsection (1) of this section.

(8) The revisions made to this section in Chapter 539, Laws of 2012, are in response to the destruction and devastation on the Town of Smithville, Mississippi, and Monroe County, Mississippi, caused by the April 2011 tornadoes with the purpose of assisting the town in its recovery efforts.

SOURCES: Laws, 2000, ch. 574, § 1-7; Laws, 2012, ch. 539, § 1, eff from and after July 1, 2012.

Amendment Notes — The 2012 amendment, in Section 7, added the proviso in (2), added (3), (4) and (8), and redesignated the remaining subsections accordingly.

§ 65-3-139. Deletion from State Highway System: Northern District — Tippah County; Laws, 2002, ch. 582.

The following highway is deleted from the state highway system, removed from the jurisdiction of the Mississippi Transportation Commission and returned to the jurisdiction of the Board of Supervisors of Tippah County:

Northern District — Tippah County:

Mississippi Highway 368 beginning at the end of state maintenance at its intersection of County Route 700 and extending easterly approximately four and one-half (4.5) miles to its intersection with County Route 701 at or near Buena Vista.

SOURCES: Laws, 2002, ch. 582, § 11, eff from and after July 1, 2002.

§ 65-3-140. Deletion from State Highway System: Central District — Yazoo County — Laws, 2003, ch. 427.

The following highway is deleted from the state highway system, removed from the jurisdiction of the Mississippi Transportation Commission and returned to the jurisdiction of the governing authorities of Yazoo City:

Central District — Yazoo County:

Mississippi 828 — U.S. 49E Spur — Begins on U.S. 49E and extends west to Yazoo City, Yazoo County.

SOURCES: Laws, 2003, ch. 427, § 1, eff from and after passage (approved Mar. 18, 2003.)

§ 65-3-140.1. Deletion from State Highway System: Central District — Copiah County — Laws 2005, ch. 304.

The following highway is deleted from the state highway system, removed from the jurisdiction of the Mississippi Transportation Commission and returned to the jurisdiction of the Board of Supervisors of Copiah County:

Central District — Copiah County:

Mississippi Highway 844 beginning on U.S. Highway 51 and proceeding easterly on South Pat Harrison Drive, thence northerly on South Jackson Street, West Georgetown Street and North Jackson Street, thence westerly on North Pat Harrison Drive to U.S. Highway 51, for a total approximate length of 3.57 miles, all within Crystal Springs, Copiah County.

SOURCES: Laws, 2005, ch. 304, § 1, eff from and after passage (approved Feb. 24, 2005.)

§ 65-3-141. Addition to State Highway System: Northern District — Union County — Laws, 2002, ch. 582.

The following segment of highway is designated as a state highway and placed under the jurisdiction of the Mississippi Transportation Commission for construction and maintenance; and such highway, together with the highways designated in Section 65-3-3, and all other laws adding links to the designated state highway system, are declared to be the state highway system of Mississippi:

Northern District — Union County:
An extension of Mississippi 30 in the City of New Albany beginning at its intersection with Mississippi 178 and extending east and northerly to its intersection with Sam T. Barkley Road.

SOURCES: Laws, 2002, ch. 582, § 12, eff from and after July 1, 2002.

§ 65-3-143.1. Add segments in Southern District — Simpson County — to State Highway System.

(1) The following segments of highway are designated as state highways and placed under the jurisdiction of the Mississippi Transportation Commission for construction and maintenance; and such highways, together with the highways designated in Section 65-3-3 and all other laws adding links to the designated state highway system are declared to be the state highway system of Mississippi:

Southern District — Simpson County:
Mississippi Highway 469 beginning at Harrisville near the old school building, Section 34, Township 2 North, Range 2 East, 7.2 miles north of its intersection with Mississippi Highway 28 at Union, thence .46 miles through Harrisville and ending at the beginning of state maintenance of Mississippi Highway 469 in Section 27, Township 2 North, Range 2 East.

Southern District — Simpson County:
Mississippi Highway 540 beginning at its intersection with Mississippi Highway 541 and extending easterly for a distance of 1077.75 feet.

(2) The Mississippi Transportation Commission shall take over and assume responsibility for construction and maintenance of the highway segments described under subsection (1) of this section whenever such highway segments have been brought up to commission standards.

SOURCES: Laws, 2002, ch. 618, § 1, eff from and after July 1, 2002.

§ 65-3-143.2. Add segments in Northern District — Coahoma County — to State Highway System.

(1) The following highway is designated as a state highway and placed under the jurisdiction of the Mississippi Transportation Commission; and such highway, together with the highways designated in Section 65-3-3, and all other laws adding links to the designated state highway system, are declared to be the state highway system of Mississippi:

Northern District — Coahoma County:
That segment of highway beginning six-tenths (.6) of a mile east of the termination of state maintenance of Mississippi Highway 316 and extending northwesterly to its intersection with U.S. Highway 49 and U.S. Highway 61, and that segment of highway extending westerly from its intersection with U.S. Highway 49 and U.S. Highway 61 to its intersection with the eastern city limits of Friars Point, Mississippi.

(2) The Mississippi Transportation Commission shall take over and assume responsibility for construction and maintenance of the segment of highway described under subsection (1) of this section whenever the commission certifies that such segment of highway has been brought up to commission standards and all utilities, signs, structures and other encroachments on such highway and right-of-way, are removed or relocated.

SOURCES: Laws, 2002, ch. 618, § 2, eff from and after July 1, 2002.

§ 65-3-143.3. Add segment in Northern District — DeSoto County — to State Highway System.

(1) The following highway is designated as a state highway and placed under the jurisdiction of the Mississippi Transportation Commission; and such highway, together with the highways designated in Section 65-3-3, and all other laws adding links to the designated state highway system, are declared to be the state highway system of Mississippi:

Northern District — DeSoto County:

That segment of road beginning at the intersection of Mississippi 301 and Mississippi 304 and extending southerly to Arkabutla Dam.

(2) The Mississippi Transportation Commission shall take over and assume responsibility for construction and maintenance of the segment of highway described under subsection (1) of this section whenever the commission certifies that such segment of highway has been brought up to commission standards and all utilities, signs, structures and other encroachments on such highway and right-of-way, are removed or relocated.

SOURCES: Laws, 2002, ch. 618, § 3, eff from and after July 1, 2002.

§ 65-3-143.4. Add segment in Northern District — Carroll County — to State Highway System.

(1) The following highway is designated as a state highway and placed under the jurisdiction of the Mississippi Transportation Commission; and such highway, together with the highways designated in Section 65-3-3, and all other laws adding links to the designated state highway system, are declared to be the state highway system of Mississippi:

Northern District — Carroll County:

Old Mississippi Highway 430 from the Leflore/Carroll County line southeasterly to its intersection with Mississippi Highway 17, a distance of approximately thirteen (13) miles.

(2) The Mississippi Transportation Commission shall take over and assume responsibility for construction and maintenance of the segment of highway described under subsection (1) of this section whenever the commission certifies that such segment of highway has been brought up to commission standards and all utilities, signs, structures and other encroachments on such highway and right-of-way, are removed or relocated.

SOURCES: Laws, 2002, ch. 618, § 4, eff from and after July 1, 2002.

§ 65-3-143.5. Add segment in Central District — Kemper County — to State Highway System.

(1) The following highway is designated as a state highway and placed under the jurisdiction of the Mississippi Transportation Commission; and such highway, together with the highways designated in Section 65-3-3, and all other laws adding links to the designated state highway system, are declared to be the state highway system of Mississippi:

Central District — Kemper County:

That portion of Old Highway 463 from Mississippi Highway 16 northerly to Mississippi Highway 397.

(2) The Mississippi Transportation Commission shall take over and assume responsibility for construction and maintenance of the segment of highway described under subsection (1) of this section whenever the commission certifies that such segment of highway has been brought up to commission standards and all utilities, signs, structures and other encroachments on such highway and right-of-way, are removed or relocated.

SOURCES: Laws, 2002, ch. 618, § 5, eff from and after July 1, 2002.

§ 65-3-143.6. Add segment in Central District — Bolivar and Sunflower Counties — to State Highway System.

(1) The following highway is designated as a state highway and placed under the jurisdiction of the Mississippi Transportation Commission; and such highway, together with the highways designated in Section 65-3-3, and all other laws adding links to the designated state highway system, are declared to be the state highway system of Mississippi:

Central District — Bolivar and Sunflower Counties:

A roadway segment beginning at or near Shelby and extending easterly to at or near Parchman.

(2) The Mississippi Transportation Commission shall take over and assume responsibility for construction and maintenance of the segment of highway described under subsection (1) of this section whenever the commission certifies that such segment of highway has been brought up to commission standards and all utilities, signs, structures and other encroachments on such highway and right-of-way, are removed or relocated.

SOURCES: Laws, 2002, ch. 618, § 6, eff from and after July 1, 2002.

§ 65-3-143.7. Add segment in Southern District — Jefferson Davis County — to the State Highway System.

(1) The following segment of highway is designated as a state highway and placed under the jurisdiction of the Mississippi Transportation Commission for construction and maintenance; and such highway, together with the

highways designated in Section 65-3-3, and all other laws adding links to the designated state highway system, are declared to be the state highway system of Mississippi:

Southern District — Jefferson Davis County:

That portion of Mississippi 42 within the corporate limits of the Town of Prentiss beginning at the end of state maintenance on Mississippi 42 at its intersection with an old abandoned railway and proceeding in a northeasterly direction along Columbia Avenue (Mississippi 42) for approximately seven hundred (700) feet to the intersection of Columbia Avenue (Mississippi 42) and Third Street.

(2) The Mississippi Transportation Commission shall take over and assume responsibility for construction and maintenance of the segment of highway described under subsection (1) of this section whenever the commission certifies that such segment of highway has been brought up to commission standards and all utilities, signs, structures and other encroachments on such highway and right-of-way, are removed or relocated.

SOURCES: Laws, 2002, ch. 618, § 7, eff from and after July 1, 2002.

§ 65-3-143.8. Add segment in Central District — Rankin County — to State Highway System.

(1) The following segment of highway is designated as a state highway and placed under the jurisdiction of the Mississippi Transportation Commission for construction and maintenance; and such highway, together with the highways designated in Section 65-3-3, and all other laws adding links to the designated state highway system, are declared to be the state highway system of Mississippi:

Central District — Rankin County:

A three-mile section of Old U.S. 49 beginning at U.S. 80 and extending southerly to new U.S. 49 in the City of Richland.

(2) The Mississippi Transportation Commission shall take over and assume responsibility for construction and maintenance of the segment of highway described under subsection (1) of this section whenever the commission certifies that such segment of highway has been brought up to commission standards and all utilities, signs, structures and other encroachments on such highway and right-of-way, are removed or relocated.

SOURCES: Laws, 2002, ch. 618, § 8, eff from and after July 1, 2002.

§ 65-3-143.9. Add segment in Northern District — Union County — to State Highway System.

The following segment of highway is designated as a state highway and placed under the jurisdiction of the Mississippi Transportation Commission for construction and maintenance; and such highway, together with the highways designated in Section 65-3-3, and all other laws adding links to the designated state highway system, are declared to be the state highway system of Mississippi:

Northern District — Union County:

An extension of Mississippi 30 in the City of New Albany beginning at its intersection with Mississippi 178 and extending east and northerly to its intersection with Sam T. Barkley Road.

SOURCES: Laws, 2002, ch. 618, § 9, eff from and after July 1, 2002.

§ 65-3-143.10. Add segment in Southern District — Marion County — to State Highway System.

(1) The Mississippi Department of Transportation shall construct to department design standards and may acquire by gift, purchase or eminent domain proceedings such property as may be necessary to perform construction of the following described segment of highway:

Southern District — Marion County:

An extension of Mississippi Highway 48 beginning at or near Sandy Hook and extending in an easterly direction across the Pearl River to an intersection with Mississippi Highway 43 at or near the Spring Cottage Community.

(2) The mileage of highway specifically designated in subsection (1) of this section shall be under the jurisdiction of the Mississippi Department of Transportation for construction and maintenance and, together with the highways designated in Section 65-3-3, and all other laws adding links to the state designated highway system, are declared to be the state highway system of Mississippi.

SOURCES: Laws, 2004, ch. 585, § 1, eff from and after July 1, 2004.

§ 65-3-143.11. Add segment in Northern District — Lowndes County — to State Highway System.

(1) The following segment of roadway is designated as a state highway and placed under the jurisdiction of the Mississippi Transportation Commission for construction and maintenance; and such highway, together with the highways designated in Section 65-3-3, and all other laws adding links to the designated state highway system, are declared to be the state highway system of Mississippi:

Northern District — Lowndes County:

Airport Road beginning at its intersection with Industrial Park Road and proceeding in a southerly direction until its intersection with Artesia Road.

(2) The Mississippi Transportation Commission shall take over and assume responsibility for construction and maintenance of the segment of highway described under subsection (1) of this section whenever the commission certifies that such segment of highway has been brought up to commission standards and all utilities, signs, structures and other encroachments on such highway and right-of-way, are removed or relocated.

SOURCES: Laws, 2005, ch. 307, § 1, eff from and after passage (approved Feb. 24, 2005.)

§ 65-3-143.12. Deletion from State Highway System: Northern District - Itawamba County - Laws, 2007, ch. 577.

The following highway is deleted from the state highway system, removed from the jurisdiction of the Mississippi Transportation Commission and returned to the jurisdiction of the Board of Supervisors of Itawamba County:

Northern District — Itawamba County

Mississippi Highway 379 in Itawamba County.

SOURCES: Laws, 2007, ch. 577, § 1, eff from and after passage (approved Apr. 21, 2007.)

§ 65-3-143.13. Deletion from State Highway System: Northern District - Tunica County - Laws, 2007, ch. 577.

The following segment of highway is deleted from the state highway system, removed from the jurisdiction of the Mississippi Transportation Commission and returned to the jurisdiction of the governing authorities of the City of Tunica, Mississippi:

Northern District — Tunica County

Mississippi Highway 4 beginning at the west corporate limits of the City of Tunica, Mississippi, and extending easterly to U.S. Highway 61, for a total approximate length of seven-tenths (.7) miles.

SOURCES: Laws, 2007, ch. 577, § 2, eff from and after passage (approved Apr. 21, 2007.)

§ 65-3-143.14. Deletion from State Highway System: Northern District - Marshall County - Laws, 2008, ch. 374.

The following highway is deleted from the state highway system, removed from the jurisdiction of the Mississippi Transportation Commission and returned to the jurisdiction of the Board of Supervisors of Marshall County:

Northern District — Marshall County:

Mississippi Highway 737 beginning on Mississippi 178 at or near Red Banks, thence through the business district of Red Banks and ending on Mississippi 178, all in Marshall County.

SOURCES: Laws, 2008, ch. 374, § 1, eff from and after passage (approved Mar. 31, 2008.)

§ 65-3-143.15. Deletion from State Highway System: Northern District - Alcorn County - Laws, 2009, ch. 353.

The following segment of highway is deleted from the state highway system, removed from the jurisdiction of the Mississippi Transportation

Commission and returned to the jurisdiction of the Board of Supervisors of Alcorn County:

Northern District — Alcorn County:

Mississippi Highway 351 beginning at its intersection with Mississippi Highway 2 and extending southerly to the Alcorn/Tippah County line.

SOURCES: Laws, 2009, ch. 353, § 1, eff from and after July 1, 2009.

§ 65-3-143.16. Add segment in Northern District - Pontotoc County - to State Highway System.

(1) The following segment of highway is designated as a state highway and placed under the jurisdiction of the Mississippi Transportation Commission for construction and maintenance; and that highway, together with the highways designated in Section 65-3-3, and all other laws adding links to the designated state highway system, are declared to be the State Highway System of Mississippi:

Northern District — Pontotoc County:

Old Mississippi 6 beginning on the west side of the City of Pontotoc at its intersection with new four-lane Mississippi 6 and extending easterly to its intersection with new Mississippi 6 on the east side of the City of Pontotoc.

(2) The Mississippi Transportation Commission shall take over and assume responsibility for construction and maintenance of the segment of highway described under subsection (1) of this section whenever the commission certifies that the segment of highway has been brought up to commission standards and all utilities, signs, structures and other encroachments on the highway and right-of-way are removed or relocated.

SOURCES: Laws, 2010, ch. 549, § 2, eff from and after July 1, 2010.

CONSTRUCTION OF STATE HIGHWAY SYSTEM

SEC.	
65-3-201.	Construction of Northern District — Monroe County.
65-3-203.	Construction of Northern District — Prentiss County.
65-3-205.	Construction of Northern District — Pontotoc, Lee, Monroe, and Itawamba Counties.
65-3-207.	Construction of Central District — Bolivar and Sunflower Counties.

§ 65-3-201. Construction of Northern District — Monroe County.

The Mississippi Department of Transportation shall construct to department design standards and may acquire by gift, purchase or eminent domain proceedings such property as may be necessary to perform construction of the following described segment of highway.

Northern District — Monroe County:

Relocation of U.S. Highway 278 south of its current route to provide for four (4) lanes of traffic beginning at or near its intersection with the eastern city limits of the City of Amory and proceeding to a point at or near its intersection with the western city limits of the City of Amory.

SOURCES: Laws, 1997, ch. 562, § 8, eff from and after July 1, 1997.

§ 65-3-203. Construction of Northern District — Prentiss County.

(1) The Mississippi Department of Transportation shall construct to department design standards and may acquire by gift, purchase or eminent domain proceedings such property as may be necessary to perform construction of the following described segment of highway:

Northern District — Prentiss County:

Relocation of Mississippi Highway 30 beginning east of its intersection with Mississippi Highway 4 and Mississippi Highway 364, thence proceed southwesterly to a point on U.S. Highway 45 south of the City of Booneville.

(2) The mileage of highway specifically designated in subsection (1) of this section shall be under the jurisdiction of the Mississippi Transportation Commission for construction and maintenance and, together with the highways designated in Sections 65-3-3 and 65-3-5, and all other laws adding links to the state designated highway system, are declared to be the state highway system of Mississippi.

SOURCES: Laws, 1997, ch. 562, § 9, eff from and after July 1, 1997.

Editor's Note — Section 65-3-5 referred to in (2) was repealed by Laws, 2000, ch. 574, § 11, eff from and after May 20, 2000.

§ 65-3-205. Construction of Northern District — Pontotoc, Lee, Monroe, and Itawamba Counties.

(1) The Mississippi Department of Transportation shall construct to department design standards, may perform such reconstruction as may be required to existing highways and may acquire by gift, purchase or eminent domain proceedings such property as may be necessary to provide four (4) lanes for traffic on and along the following locations:

Northern District — Pontotoc, Lee and Monroe Counties:

Mississippi Highway 6 (Appalachian Corridor V) from Mississippi Highway 9 easterly to U.S. Highway 45 south of Tupelo and continuing easterly to existing Mississippi Highway 6 near Plantersville, a distance of approximately 10.5 miles, and Mississippi Highway 6 from the City of Amory to its intersection with U.S. Highway 45 south of Nettleton, including relocation of Mississippi Highway 6 south of Nettleton, a distance of approximately 10 miles.

Northern District — Itawamba County:

Mississippi Highway 76 (Appalachian Corridor V) from a point approximately 5.0 miles northeast of U.S. Highway 78 near the community of

Fairview and extending northeasterly approximately 11 miles to the Alabama state line.

(2) The mileage of highways specifically designated in subsection (1) of this section shall be under the jurisdiction of the Mississippi Transportation Commission for construction and maintenance and, together with the highways designated in Sections 65-3-3 and 65-3-5, and all other laws adding links to the state designated highway system, are declared to be the state highway system of Mississippi.

SOURCES: Laws, 1997, ch. 562, § 10, eff from and after July 1, 1997.

Editor's Note — Section 65-3-5 referred to in (2) was repealed by Laws, 2000, ch. 574, § 11, eff from and after May 20, 2000.

§ 65-3-207. Construction of Central District — Bolivar and Sunflower Counties.

The Mississippi Department of Transportation shall construct and reconstruct to department design standards and may acquire by gift, purchase or eminent domain proceedings such property as may be necessary to provide four (4) lanes for traffic on and along the following location:

Central District — Bolivar and Sunflower Counties:
Mississippi Highway 8 from Cleveland to Ruleville.

SOURCES: Laws, 1997, ch. 562, § 12, eff from and after July 1, 1997.

INTERSTATE COMPACT TO PROMOTE FOUR LANES FOR US HIGHWAY 82

Sec.	
65-3-301.	U.S. Highway 82 Four Lane Construction Compact; legislative approval; text of Compact.
65-3-303.	Grant of powers detailed in Compact.
65-3-305.	U.S. Highway 82 Four Lane Construction Authority; appointment; residency requirements; term of office.
65-3-307.	Consent and approval of U.S. Congress; effect of absence of consent.

§ 65-3-301. U.S. Highway 82 Four Lane Construction Compact; legislative approval; text of Compact.

The Governor, on behalf of this state, is hereby authorized to execute a compact, in substantially the following form, with the State of Arkansas and the State of Alabama; and the Legislature hereby signifies in advance its approval and ratification of such compact, which compact is as follows:

U.S. HIGHWAY 82 FOUR LANE CONSTRUCTION COMPACT

ARTICLE I. — The purpose of this compact is to promote and ensure the four laning of U.S. Highway 82 within the party states and to establish a joint interstate authority to assist that effort.

ARTICLE II. — This compact shall become effective immediately as to the states ratifying it whenever the State of Mississippi and either the State of Arkansas or the State of Alabama have ratified it and Congress has given consent thereto.

ARTICLE III. — The states which are parties to this compact (referred to as "party states") do hereby establish and create a joint agency which shall be known as the U.S. Highway 82 Four Lane Construction Authority (hereinafter referred to as "the authority"). The membership of such authority shall consist of one (1) representative named by the highway department of each party state and three (3) other citizens of each party state to be selected in the manner provided by laws enacted by the party states. The members of the authority shall not be compensated for service on the authority, but each of the members shall be entitled to actual and reasonable expenses incurred in attending meetings, or incurred otherwise in the performance of his duties as a member of the authority. The members of the authority shall hold regular quarterly meetings and such special meetings as its business may require. They shall choose annually a chairman and vice-chairman from among their members, and the chairmanship shall rotate each year among the party states in order of their acceptance of this compact. The secretary of the authority (hereinafter provided for) shall notify each member in writing of all meetings of the authority in such a manner and under such rules and regulations as the authority may prescribe. The authority shall adopt rules and regulations for the transaction of its business; and the secretary shall keep a record of all its business and shall furnish a copy thereof to each member of the authority. It shall be the duty of the authority, in general, to promote, encourage and coordinate the efforts of the party states to secure the timely four laning of U.S. Highway 82 within the party states. Toward this end, the authority shall have power to hold hearings; to conduct studies and surveys of all problems, benefits, and other matters associated with the four laning of U.S. Highway 82 within the party states, and to make reports thereon; to acquire, by gift, grant or otherwise, from local, state, federal or private sources such money or property as may be provided for the proper performance of their function, and to hold and dispose of same; to cooperate with other public or private groups, whether local, state, regional or national, having an interest in the four laning of U.S. Highway 82 within the party states; to formulate and execute plans and policies for emphasizing the purpose of this compact before the Congress of the United States and other appropriate officers and agencies of the United States; and to exercise such other powers as may be appropriate to enable it to accomplish its functions and duties in connection with the four laning of U.S. Highway 82 within the party states.

ARTICLE IV. — The authority shall appoint a secretary, who shall be a person familiar with the nature, procedures and significance of the four lane completion and the informational, educational and publicity methods of stimulating general interest in such construction, and who shall be the compact administrator. The term of office of the secretary shall be at the pleasure of the authority, and such officer shall receive such compensation as the authority shall prescribe. The secretary shall maintain custody of the authority's books, records and papers, which shall be kept by the secretary at the office of the authority, and shall perform all functions and duties and exercise all powers and duties which may be delegated to the secretary by the authority.

ARTICLE V. — Each party state agrees that its Legislature may, in its discretion, from time to time make available and pay over to the authority funds for the establishment and operation of the authority. The contribution of each party state will be in equal amounts.

ARTICLE VI. — Nothing in this compact shall be construed so as to conflict with any existing statute, or to limit the powers of any party state, or to repeal or prevent legislation, or to authorize or permit curtailment or diminution of any other highway construction project, or to affect any existing or future cooperative arrangement or relationship between any federal agency and a party state.

ARTICLE VII. — This compact shall continue in force and remain binding upon each party state until the Legislature or Governor of each or either state takes action to withdraw therefrom; provided that such withdrawal shall not become effective until six (6) months after the date of the action taken by the Legislature or the Governor. Notice of such action shall be given to the other party state or states by the party state which takes such action.

SOURCES: Laws, 1989, ch. 319, § 1, eff from and after passage (approved March 6, 1989).

Comparable Laws from other States — Arkansas: A.C.A. § 27-75-101 et seq.

§ 65-3-303. Grant of powers detailed in Compact.

There is hereby granted to the Governor and to the members of the authority for Mississippi all the powers provided for in the compact. All officers of the State of Mississippi are hereby authorized and directed to do all things falling within their respective jurisdictions which are necessary or incidental to carrying out the purpose of the compact.

SOURCES: Laws, 1989, ch. 319, § 2, eff from and after passage (approved March 6, 1989).

§ 65-3-305. U.S. Highway 82 Four Lane Construction Authority; appointment; residency requirements; term of office.

The three (3) citizens of the State of Mississippi who are members of the U.S. Highway 82 Four Lane Construction Authority shall be appointed by the Governor as follows: Each appointee shall be a resident of a county in this state which is traversed by U.S. Highway 82; one (1) shall be appointed from a county bordering the State of Arkansas, one (1) from a county bordering the State of Alabama, and one (1) from a county in the central portion of the state.

Such members shall serve for terms of four (4) years each. Vacancies shall be filled by the Governor for the unexpired terms.

SOURCES: Laws, 1989, ch. 319, § 3, eff from and after passage (approved March 6, 1989).

§ 65-3-307. Consent and approval of U.S. Congress; effect of absence of consent.

The authority shall have the power to apply to the Congress of the United States for its consent and approval of the compact; but, in the absence of the consent of Congress and until such consent is secured, the compact shall be binding upon the State of Mississippi in all respects permitted by law for the party states, without the consent of Congress, to cooperate for the purpose enumerated in the compact and in the manner provided therein.

SOURCES: Laws, 1989, ch. 319, § 4, eff from and after passage (approved March 6, 1989).

CHAPTER 4

Economic Development Highway Act

Sec.
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65-4-9. Review and approval of application.
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§ 65-4-1. Short title.

This chapter shall be known and may be cited as the "Economic Development Highway Act."

SOURCES: Laws, 1988, ch. 565, § 1, eff from and after passage (approved May 21, 1988).

ATTORNEY GENERAL OPINIONS

The Mississippi Department of Economic and Community Development may lawfully award a grant pursuant to the "Economic Development Highway Act" to a municipality with the knowledge that the grant proceeds will be incorporated into the municipality's TIF plan and expended in accordance to the plan. See Section 21-45-1 et seq. Pittman, August 1, 1995, A.G. Op. #95-0532.

§ 65-4-3. Purpose.

It is the purpose of this chapter to promote, attract and secure industrial and other significant development in the state through the construction and improvement of highways in areas of the state which demonstrate actual and immediate potential for the creation or expansion of major industry or other significant development which is heavily dependent upon the use of and direct access to primary highways.

SOURCES: Laws, 1988, ch. 565, § 2; Laws, 1990, ch. 580, § 1; Laws, 1999, ch. 579, § 18, eff from and after July 1, 1999.

Editor's Note — Laws, 1990, ch. 580, § 10, provides as follows:

"SECTION 10. Any attorney's fees paid as the result of the issuance of bonds under this act shall be in compliance with the limits on attorney's fees for bond issues as adopted by the State Bond Commission. Attorney's fees paid as the result of the issuance of bonds under this act shall be subject to negotiation but in no event shall exceed the limits established by the State Bond Commission. A detailed accounting of all expenses incurred by all persons, firms, corporations, associations or other organizations involved in such bond issues shall be submitted to the State Bond Commission within ninety (90) days after the issuance of such bonds and shall be a matter of public record."

§ 65-4-5. Definitions.

(1) The following words when used in this chapter shall have the meanings herein ascribed unless the context otherwise clearly requires:

(a) "Board" means the Mississippi Development Authority;

(b) "Department" means the Mississippi Department of Transportation;

(c) "High economic benefit project" means:

(i) Any new investment by a private company with capital investments in land, buildings, depreciable fixed assets and improvements of at least Seventy Million Dollars ($70,000,000.00);

(ii) Any new investment of at least Twenty Million Dollars ($20,000,000.00) by a private company having capital investments in this state in land, buildings, depreciable fixed assets and improvements of at least One Billion Dollars ($1,000,000,000.00) in the aggregate;

(iii) Public investment of at least One Hundred Million Dollars ($100,000,000.00) to take place over a specified period of time and in accordance with a master plan duly adopted by the controlling political subdivision;

(iv) Any new investments in land, buildings, depreciable fixed assets and improvements by two (2) private companies upon land that is adjacent whenever the new investments of both companies are at least Sixty Million Dollars ($60,000,000.00) in the aggregate, and such new investments by both private companies provide for the employment of at least five hundred (500) employees in the aggregate;

(v) Any project which would benefit from the construction of any highway bypass which would aid in economic development and would provide an alternate route to avoid an existing route which underpasses a railroad and which would aid in existing or proposed industry;

(vi) Any master planned community;

(vii) Any new investments in land, buildings, depreciable fixed assets and improvements by not more than three (3) private companies physically located within a one-half-mile radius of each other whenever the new investments of such companies are at least Sixty Million Dollars ($60,000,000.00) in the aggregate, and such new investments by such companies provide for the employment of at least three hundred (300) new employees in the aggregate;

(viii) Any new investments in land, buildings, depreciable fixed assets and improvements by two (2) or more private companies upon lands originally adjacent, but now divided by a four-lane state highway and bordered by a two-lane state highway, and the new investments of the companies are at least Fifty Million Dollars ($50,000,000.00) in the aggregate, and a portion of such new investment will be utilized for the construction of a hospital;

(ix) [Repealed]

(x) Any project as defined in Section 57-75-5(f)(xxi); however, the term "high economic benefit project" does not include the construction of Mississippi Highway 348. This subparagraph (x) shall stand repealed from and after July 1, 2013;

(xi) Any project as defined in Section 17-25-17;

(xii) Any project which would allow access to a national intermodal facility with a minimum capital investment of One Hundred Million Dollars ($100,000,000.00) that is located within five (5) miles of the State of Mississippi and has direct access into an industrial park within the state.

However, if the initial investments that a private company made in order to meet the definition of a high economic benefit project under this paragraph (c)(i) and in order to be approved for such project exceeded Fifty Million Dollars ($50,000,000.00), or if subsequent to being approved for the initial project the same company and/or one or more other private companies made additional capital investments exceeding Fifty Million Dollars ($50,000,000.00) in aggregate value in land, buildings, depreciable fixed assets and improvements physically attached to or forming a part of the initially planned site development, then an amount equal to fifty percent (50%) of all such investments that exceeds Fifty Million Dollars ($50,000,000.00) shall be subtracted from the Sixty Million Dollars ($60,000,000.00) in aggregate value of new investments required under this paragraph (c)(vii);

(d) "Political subdivision" means one or more counties or incorporated municipalities in the state, or a state-owned port located in a county bordering on the Gulf of Mexico;

(e) "Private company" means:

(i) Any agricultural, aquacultural, maricultural, processing, distribution, warehousing, manufacturing, transportation, tourism or research and development enterprise;

(ii) Any air transportation and maintenance facility, regional shopping mall, hospital, large hotel, resort or movie industry studio;

(iii) The federal government with respect to any specific project which meets the criteria established in paragraph (c)(i) of this subsection;

(iv) Any existing or proposed industry in regard to a project described in paragraph (c)(v) of this subsection;

(v) A developer with respect to any specific project which meets the criteria established in paragraph (c)(vi) of this subsection; or

(vi) A tourism project approved by the board;

(f) "Master planned community" shall have the same meaning as that term is defined in Section 19-5-10.

(2) The Mississippi Department of Transportation is hereby authorized to purchase rights-of-way and construct and maintain roads and highways authorized to be constructed pursuant to this chapter.

SOURCES: Laws, 1988, ch. 565, § 3; Laws, 1989, ch. 524, § 27; Laws, 1990, ch. 502, § 12; Laws, 1990, ch. 580, § 2; Laws, 1992, ch. 493, § 1; Laws, 1995, ch. 548, § 8; Laws, 1997, ch. 537, § 1; Laws, 1999, ch. 579, § 19; Laws, 2000, ch. 440, § 1; Laws, 2000, ch. 590, § 2; Laws, 2003, ch. 443, § 1; Laws, 2004, ch. 594, § 1; Laws, 2007, ch. 409, § 1; Laws, 2009, ch. 557, § 26; Laws, 2010, ch. 520, § 1; Laws, 2011, ch. 480, § 24, eff from and after passage (approved Apr. 6, 2011.)

Joint Legislative Committee Note — Section 1 of ch. 440, Laws, 2000, effective from and after July 1, 2000, amended this section. Section 2 of ch. 590, Laws, 2000, effective from and after its passage (approved May 20, 2000), also amended this section. As set out above, this section reflects the language of both amendments pursuant to Section 1-1-109 which gives the Joint Legislative Committee on Compilation, Revision and Publication of Legislation authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Committee on Compilation, Revision and Publication of Legislation ratified the integration of these amendments as consistent with the Legislative intent at the June 29, 2000 meeting of the Committee.

Editor's Note — Laws, 1989, ch. 524, § 36, provides as follows:

"SECTION 36. The repeal or amendment of this act shall not reduce the terms of any tax reduction, special tax incentive or financial assistance agreed upon pursuant to official action by the Department of Economic Development, the State Tax Commission or other appropriate agency of the state or political subdivision thereof prior to the effective date of such repeal or amendment."

Laws, 1990, ch. 580, § 10, provides as follows:

"SECTION 10. Any attorney's fees paid as the result of the issuance of bonds under this act shall be in compliance with the limits on attorney's fees for bond issues as adopted by the State Bond Commission. Attorney's fees paid as the result of the issuance of bonds under this act shall be subject to negotiation but in no event shall exceed the limits established by the State Bond Commission. A detailed accounting of all expenses incurred by all persons, firms, corporations, associations or other organizations involved in such bond issues shall be submitted to the State Bond Commission within ninety (90) days after the issuance of such bonds and shall be a matter of public record."

Subparagraph (1)(c)(ix) was repealed by its own terms effective from and after July 1, 2009.

Amendment Notes — The 2010 amendment added (1)(c)(x) through (1)(c)(xii); made a stylistic change in the paragraph preceding (1)(d); and inserted "transportation" in (e)(1).

The 2011 amendment substituted "July 1, 2013" for "July 1, 2011" at the end of (1)(c)(x); and inserted "tourism" in (1)(e)(i).

Cross References — Application of the definition of "high economic benefit" to the approval of an application for assistance to construct or improve highways to encourage economic development, see § 65-4-9.

§ 65-4-7. Application for assistance to construct or improve highways to encourage economic development.

Any political subdivision desiring the assistance of the state in order to construct or improve any highways or highway segments, the primary purpose of such construction or improvement being to encourage a private company to engage in a high economic benefit project within the geographic boundaries of the political subdivision, may apply to the board for such approval and assistance. The application from the political subdivision shall include, but not be limited to:

(a) A description of the highways or highway segments requested to be constructed or improved;

(b) A certified resolution from the governing authorities of the political subdivision detailing the source and amount of funds which the political subdivision has committed or is willing to commit for construction or improvement of such highways or highway segments;

(c) A certified copy of a signed letter of intent from the private company to the political subdivision describing in detail the high economic benefit project in which it is committed to engage upon construction or improvement of the highways or highway segments within the political subdivision and the proposed timetable for completion of such project;

(d) Demonstration that the private company is financially sound and is likely to fulfill the commitments made in its letter of intent; and

(e) An estimate by the private company of the number, size and weight of motor vehicles and the frequency of travel of such vehicles upon the highways or highway segments requested to be constructed or improved after completion of the project by the private company.

SOURCES: Laws, 1988, ch. 565, § 4; Laws, 1990, ch. 580, § 3, eff from and after passage (approved April 9, 1990).

Editor's Note — Laws, 1990, ch. 580, § 10, provides as follows:

"SECTION 10. Any attorney's fees paid as the result of the issuance of bonds under this act shall be in compliance with the limits on attorney's fees for bond issues as adopted by the State Bond Commission. Attorney's fees paid as the result of the issuance of bonds under this act shall be subject to negotiation but in no event shall exceed the limits established by the State Bond Commission. A detailed accounting of all expenses incurred by all persons, firms, corporations, associations or other organizations involved in such bond issues shall be submitted to the State Bond Commission within ninety (90) days after the issuance of such bonds and shall be a matter of public record."

Cross References — Review and approval of applications submitted under this section, see § 65-4-9.

§ 65-4-9. Review and approval of application.

Upon receipt of an application by a political subdivision as provided under Section 65-4-7, Mississippi Code of 1972, the board shall review the application and may approve the application if it determines:

(a) The highways or highway segments for which the political subdivision is requesting assistance in constructing or improving are necessary and essential to ensure adequate and appropriate access to the proposed project for the purpose of encouraging its location within the geographical boundaries of the political subdivision;

(b) The project proposed by the private company meets the definition of a "high economic benefit project" as such term is defined in Section 65-4-5, Mississippi Code of 1972;

(c) The private company has demonstrated financial soundness and appears to have such assets and credit worthiness as to permit it to secure necessary funds to complete the project according to its commitments; and

(d) The costs for the construction or improvement of such highways or highway segments to be funded hereunder will not exceed the funds available in the Economic Development Highway Fund created by Section 65-4-15, Mississippi Code of 1972.

SOURCES: Laws, 1988, ch. 565, § 5; Laws, 1990, ch. 580, § 4, eff from and after passage (approved April 9, 1990).

Editor's Note — Laws, 1990, ch. 580, § 10, provides as follows:

"SECTION 10. Any attorney's fees paid as the result of the issuance of bonds under this act shall be in compliance with the limits on attorney's fees for bond issues as adopted by the State Bond Commission. Attorney's fees paid as the result of the issuance of bonds under this act shall be subject to negotiation but in no event shall exceed the limits established by the State Bond Commission. A detailed accounting of all expenses incurred by all persons, firms, corporations, associations or other organizations involved in such bond issues shall be submitted to the State Bond Commission within ninety (90) days after the issuance of such bonds and shall be a matter of public record."

§ 65-4-11. Report and recommendations of Department of Transportation with respect to proposed highway construction or improvement project.

Before approving any application under this chapter the board shall have the Mississippi Department of Transportation, or the political subdivision if the political subdivision will have the construction or improvement performed, prepare and submit to it a detailed engineering study and report of all estimated costs associated with the construction and improvement of the highways and highway segments requested by the application of the political subdivision along with the estimated annual costs necessary to be expended for maintenance thereof. If the political subdivision will have the construction or improvement performed on a state designated highway that will be maintained by the Mississippi Department of Transportation, the board shall not approve the application of such political subdivision until the engineering study required in this section has been submitted by the board to the Mississippi Department of Transportation and has been certified by the Transportation Department to the board as proposing construction or improvement of highways and highway segments that meets Transportation Department standards for such work. If the political subdivision will have the construction or improvement performed on a highway that is not on the designated state highway system, the board shall not approve the application of such political subdivision until the engineering study required in this section has been submitted by the board to the Office of State Aid Road Construction and has been certified by the Office of State Aid Road Construction to the board as proposing construction or improvement of highways and highway segments that meets Office of State Aid Road Construction standards for such work.

The Mississippi Department of Transportation or the Office of State Aid Road Construction, as the case may be, may recommend modifications to the location and route of those highways and highway segments proposed in the application of the political subdivision if such modifications are more cost effective and would not have a substantially negative economic impact on the project of the private company.

SOURCES: Laws, 1988, ch. 565, § 6; Laws, 1990, ch. 580, § 5; Laws, 1996, ch. 439, § 1, eff from and after passage (approved March 29, 1996).

Editor's Note — Laws, 1990, ch. 580, § 10, provides as follows:

"SECTION 10. Any attorney's fees paid as the result of the issuance of bonds under this act shall be in compliance with the limits on attorney's fees for bond issues as adopted by the State Bond Commission. Attorney's fees paid as the result of the issuance of bonds under this act shall be subject to negotiation but in no event shall exceed the limits established by the State Bond Commission. A detailed accounting of all expenses incurred by all persons, firms, corporations, associations or other organizations involved in such bond issues shall be submitted to the State Bond Commission within ninety (90) days after the issuance of such bonds and shall be a matter of public record."

§ 65-4-13. Notice of approval of application; approval prohibited where cost of project exceeds available funds.

If, after reviewing the application of the political subdivision and the report of the State Highway Department or political subdivision, the board determines that the application meets the requirements for approval and should be approved, the board shall notify the political subdivision and the State Highway Commission of its approval and contracts may be let. Upon certification by the board that monies currently available in the Economic Development Highway Fund are sufficient to defray the costs of the construction or improvement, then contracts with respect to such work may be executed by the highway department or political subdivision and work necessary for the construction or improvement of the highways and highway segments so approved shall commence by the State Highway Department or political subdivision, as determined by the Department of Economic and Community Development. If the construction or improvement is by a political subdivision, the State Aid Engineer shall have such work inspected periodically during the progress of such construction or improvement to ensure that it meets the standards prescribed in Section 65-4-17, Mississippi Code of 1972. However, no application shall be approved by the board if the total costs for constructing or improving the proposed highways or highway segments to be funded hereunder, according to estimates in the report of the State Highway Department or political subdivision, will exceed monies currently available in the Economic Development Highway Fund created in Section 65-4-15, Mississippi Code of 1972.

SOURCES: Laws, 1988, ch. 565, § 7; Laws, 1990, ch. 580, § 6, eff from and after passage (approved April 9, 1990).

Editor's Note — Laws, 1990, ch. 580, § 10, provides as follows:

"SECTION 10. Any attorney's fees paid as the result of the issuance of bonds under this act shall be in compliance with the limits on attorney's fees for bond issues as adopted by the State Bond Commission. Attorney's fees paid as the result of the issuance of bonds under this act shall be subject to negotiation but in no event shall exceed the limits established by the State Bond Commission. A detailed accounting of all expenses incurred by all persons, firms, corporations, associations or other organizations involved in such bond issues shall be submitted to the State Bond Commission within ninety (90) days after the issuance of such bonds and shall be a matter of public record."

Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation, and whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 65-4-15. Economic Development Highway Fund.

(1) There is hereby established a special fund in the State Treasury to be known as the "Economic Development Highway Fund" which shall consist of such monies as the Legislature shall appropriate thereto or such other monies as the Legislature may designate to be deposited therein. Any monies to the credit of such fund may be expended by the Mississippi Department of Transportation or political subdivision, as appropriate, upon approval of requisitions therefor by the Mississippi Development Authority for any expenses incurred by the Transportation Department or political subdivision in constructing and improving highways and highway segments which have been approved by the Mississippi Development Authority under the provisions of

this chapter. From and after July 1, 2004, no monies to the credit of the fund may be expended for the construction and improvement of highways for high economic benefit projects that are being developed for the primary purpose of conducting retail sales unless the Mississippi Development Authority has received an application for the project prior to July 1, 2004. The Office of State Aid Road Construction shall be entitled to reimbursement from monies in the fund, upon approval by the Mississippi Development Authority of requisitions therefor by the State Aid Engineer, for the actual expenses incurred by the office in administering and providing engineering services to political subdivisions. Monies remaining unexpended to the credit of such special fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on the investment of monies in the special fund shall be deposited to the credit of the fund.

(2) Monies in the Economic Development Highway Fund which are derived from proceeds of bonds issued under this chapter after July 1, 2003, may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance to a political subdivision related to a project for which funding is provided from the use of proceeds of such bonds. An accounting of actual costs incurred for which reimbursement is sought shall be maintained for each project by the Mississippi Development Authority. Reimbursement of reasonable actual and necessary costs for a project shall not exceed three percent (3%) of the proceeds of bonds issued for such a project. Monies authorized for a particular project may not be used to reimburse administrative costs for unrelated projects. Reimbursements to the Mississippi Development Authority under this subsection shall satisfy any applicable federal tax law requirements.

SOURCES: Laws, 1988, ch. 565, § 8; Laws, 1989, ch. 524, § 28; Laws, 1990, ch. 580, § 7; Laws, 1999, ch. 415, § 1; Laws, 2003, ch. 518, § 2; Laws, 2004, ch. 510, § 1, eff from and after passage (approved May 4, 2004.)

Editor's Note — Laws, 1989, ch. 524, § 36, provides as follows:

"SECTION 36. The repeal or amendment of this act shall not reduce the terms of any tax reduction, special tax incentive or financial assistance agreed upon pursuant to official action by the Department of Economic Development, the State Tax Commission or other appropriate agency of the state or political subdivision thereof prior to the effective date of such repeal or amendment."

Laws, 1990, ch. 580, § 10, provides as follows:

"SECTION 10. Any attorney's fees paid as the result of the issuance of bonds under this act shall be in compliance with the limits on attorney's fees for bond issues as adopted by the State Bond Commission. Attorney's fees paid as the result of the issuance of bonds under this act shall be subject to negotiation but in no event shall exceed the limits established by the State Bond Commission. A detailed accounting of all expenses incurred by all persons, firms, corporations, associations or other organizations involved in such bond issues shall be submitted to the State Bond Commission within ninety (90) days after the issuance of such bonds and shall be a matter of public record."

Cross References — Prohibition against approving applications where there are insufficient funds available in the fund created by this section to pay for the cost of the highway project, see § 65-4-9.

Limitation on approving applications for assistance to construct or improve highways to encourage economic development that the funds be available in the fund created by this section, see § 65-4-9.

Transfer of investment account surplus sums into the Economic Development Highway Fund, see § 65-4-19.

Issuance of general obligation bonds for Economic Development Highway Fund, see § 65-4-25.

§ 65-4-17. Standards for construction or improvement of highways and highway segments; entity responsible for maintaining highways constructed or improved.

Any highways or highway segments authorized to be constructed or improved by the Mississippi Department of Transportation or political subdivision under the provisions of this chapter shall be constructed or improved to bear a load limit of at least eighty thousand (80,000) pounds.

For any project approved from and after April 12, 1993, if at the time the project is approved the highways or highway segments to be constructed or improved are a part of the designated state highway system, then maintenance on such highways or highway segments after completion of the project shall be performed by the Mississippi Department of Transportation and shall be constructed to Transportation Department standards. For any project approved from and after April 12, 1993, if at the time the project is approved the highways or highway segments to be constructed or improved are not part of the designated state highway system, the maintenance on such highways or highway segments after completion of the project shall be performed by the political subdivision and shall be constructed to Office of State Aid Road Construction standards.

SOURCES: Laws, 1988, ch. 565, § 9; Laws, 1990, ch. 580, § 8; Laws, 1993, ch. 531, § 1; Laws, 1996, ch. 439, § 2, eff from and after passage (approved March 29, 1996).

Editor's Note — Laws, 1990, ch. 580, § 10, provides as follows:

"SECTION 10. Any attorney's fees paid as the result of the issuance of bonds under this act shall be in compliance with the limits on attorney's fees for bond issues as adopted by the State Bond Commission. Attorney's fees paid as the result of the issuance of bonds under this act shall be subject to negotiation but in no event shall exceed the limits established by the State Bond Commission. A detailed accounting of all expenses incurred by all persons, firms, corporations, associations or other organizations involved in such bond issues shall be submitted to the State Bond Commission within ninety (90) days after the issuance of such bonds and shall be a matter of public record."

Cross References — Periodic inspection of highway projects financed under this chapter for compliance with this section, see § 65-4-13.

§ 65-4-19. Transfer of funds; definitions.

(1) The State Highway Commission, acting through the Director of the State Highway Department, is hereby authorized and directed as follows: on each transfer date, the State Highway Commission shall transfer from the

State Highway Fund into the appropriate fund specified below the sum equal to the investment account surplus for such transfer date. During fiscal year 1989, the investment account surplus sums available for transfer shall be transferred into the Economic Development Highway Fund created by Section 65-4-15, until Two Million Dollars ($2,000,000.00) in the aggregate has been transferred to that fund, and any additional investment account surplus sums available for transfer not exceeding Twenty-five Million Dollars ($25,000,000.00) in the aggregate shall be transferred into the State General Fund. During fiscal year 1990 and thereafter, any investment account surplus sums available for transfer shall be transferred into the Economic Development Highway Fund.

(2) As used in Sections 65-4-19, 65-4-21 and 65-4-23, the following terms shall have the following meanings:

(a) "Investment account surplus" means, with respect to each transfer date, the amount specified in item (ii) of the definition of transfer date, as set forth below.

(b) "Transfer date" means the second business day following the delivery to the Director of the State Highway Department of a certificate signed by the State Treasurer to the effect: (i) that, pursuant to Section 4(c) of Chapter 39, Extraordinary Session of 1969 (as amended by Section 1 of Chapter 418, Laws of 1976, as amended by Section 1 of Chapter 478, Laws of 1978, and as amended by Section 1 of Chapter 469, Laws of 1985), the State Bond Commission of the State of Mississippi has restructured the investments held in the investment account established pursuant to such Section 4(c) and relating to the State's Highway Revenue Refunding Bonds, Series 1985; (ii) that, as a result of such restructuring and pursuant to such Section 4(c), the State Bond Commission has declared a specified sum held in such investment account as being surplus (i.e., as being the investment account surplus for such transfer date); (iii) that the State Bond Commission has applied such investment account surplus to deposit into the bond fund relating to the State's Highway Revenue Refunding Bonds, Series 1985, in order to reduce on a dollar for dollar basis the amount of gasoline excise taxes which must be deposited in such bond fund, or to retention in such investment account in order to reduce on a dollar for dollar basis the amount of gasoline excise taxes which must be deposited in such investment account, or to any combination of such deposit and retention; (iv) that any portion of the investment account surplus deposited in such bond fund has been invested pending its disbursement to pay principal of or interest on such bonds; (v) that any portion of the investment account surplus retained in such investment account has been invested pending its disbursement to purchase U.S. government obligations which are scheduled to be held in such investment account; and (vi) that provision has been made for all interest earnings on investments of such investment account surplus, pending its disbursement to pay principal of or interest on such bonds, or pending its disbursement to purchase U.S. government obligations scheduled to be held in such investment account, as the case may be, to be paid into the State Highway Fund.

SOURCES: Laws, 1988, ch. 449, § 1, eff from and after passage (approved April 25, 1988).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation, and whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 65-4-21. Payment into fund; warrant.

On each transfer date the Director of the State Highway Department shall make requisition upon the State Fiscal Management Board and thereupon the State Fiscal Management Board shall issue its warrant to the State Treasurer, who shall immediately pay the same into the appropriate fund specified in Section 65-4-19 as provided by law.

SOURCES: Laws, 1988, ch. 449, § 2, eff from and after passage (approved April 25, 1988).

Editor's Note — Section 27-104-1 provides that the term "Fiscal Management Board" shall mean the "Department of Finance and Administration."

Section 65-1-1 provides that whenever the term 'director,' meaning the Chief Administrative Officer of the State Highway Department, appears in the laws of the State of Mississippi, it shall mean the Executive Director of the Mississippi Department of Transportation.

§ 65-4-23. Conflict of interests.

No member of the Legislature, elected official or appointed official, or any partner or associate of any member of the Legislature, elected official or appointed official, or member of their family, shall derive any income or thing of value from the restructuring of any investments held in the investment account established pursuant to Section 4(c) of Chapter 39, Extraordinary Session of 1969, as amended, and relating to the State's Highway Revenue Refunding Bonds, Series 1985.

SOURCES: Laws, 1988, ch. 449, § 3, eff from and after passage (approved April 25, 1988).

§ 65-4-25. Resolution to issue general obligation bonds for Economic Development Highway Fund.

[Until June 30, 2014, this section shall read as follows:]

The Mississippi Development Authority, acting through its executive director, is authorized, at one time or from time to time, to declare by resolution the necessity for issuance of negotiable general obligation bonds of the State of

Mississippi to provide funds for the Economic Development Highway Fund established in Section 65-4-15, Mississippi Code of 1972. Upon the adoption of a resolution by the Executive Director of the Mississippi Development Authority, declaring the necessity for the issuance of any part or all of the general obligation bonds authorized by Sections 65-4-25 through 65-4-45, Mississippi Code of 1972, the executive director shall deliver a certified copy of his resolution or resolutions to the State Bond Commission. Upon receipt of the resolution, the State Bond Commission, in its discretion, shall act as the issuing agent, prescribe the form of the bonds, determine the appropriate method for the sale of the bonds, advertise for and accept bids or negotiate the sale of the bonds, issue and sell the bonds so authorized to be sold, and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The principal amount of bonds issued under Sections 65-4-25 through 65-4-45, Mississippi Code of 1972, shall not exceed Three Hundred Fifty-seven Million Five Hundred Thousand Dollars ($357,500,000.00) in the aggregate. However, an additional amount of bonds may be issued under Sections 65-4-25 through 65-4-45, Mississippi Code of 1972, in an amount not to exceed Seven Million Dollars ($7,000,000.00), and the proceeds of any such additional bonds issued shall be used to provide funding for a high economic benefit project as defined in Section 65-4-5(1)(c)(vi), Mississippi Code of 1972.

[From and after July 1, 2014, this section shall read as follows:]

The Mississippi Development Authority, acting through its executive director, is authorized, at one time or from time to time, to declare by resolution the necessity for issuance of negotiable general obligation bonds of the State of Mississippi to provide funds for the Economic Development Highway Fund established in Section 65-4-15, Mississippi Code of 1972. Upon the adoption of a resolution by the Executive Director of the Mississippi Development Authority, declaring the necessity for the issuance of any part or all of the general obligation bonds authorized by Sections 65-4-25 through 65-4-45, Mississippi Code of 1972, the executive director shall deliver a certified copy of his resolution or resolutions to the State Bond Commission. Upon receipt of the resolution, the State Bond Commission, in its discretion, shall act as the issuing agent, prescribe the form of the bonds, advertise for and accept bids, issue and sell the bonds so authorized to be sold, and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The principal amount of bonds issued under Sections 65-4-25 through 65-4-45, Mississippi Code of 1972, shall not exceed Three Hundred Fifty-seven Million Five Hundred Thousand Dollars ($357,500,000.00) in the aggregate. However, an additional amount of bonds may be issued under Sections 65-4-25 through 65-4-45, Mississippi Code of 1972, in an amount not to exceed Seven Million Dollars ($7,000,000.00), and the proceeds of any such additional bonds issued shall be used to provide funding for a high economic benefit project as defined in Section 65-4-5(1)(c)(vi), Mississippi Code of 1972.

SOURCES: Laws, 1989, ch. 463, § 1; Laws, 1990, ch. 580, § 9; Laws, 1992, ch. 441, § 1; Laws, 1994, ch. 560, § 3; Laws, 1995, ch. 548, § 9; Laws, 1997, ch. 537, § 2; Laws, 1999, ch. 449, § 1; Laws, 1999, ch. 579, § 20; Laws, 2000, ch. 584, § 3; Laws, 2003, ch. 518, § 1; Laws, 2004, ch. 510, § 2; Laws, 2006, ch. 484, § 1; Laws, 2009, ch. 557, § 27; Laws, 2010, ch. 520, § 2; Laws, 2011, ch. 431, § 2; Laws, 2011, ch. 480, § 5, eff from and after passage (approved Apr. 6, 2011.)

Joint Legislative Committee Note — Section 1 of ch. 449, Laws, 1999, effective from and after July 1, 1999 (approved March 19, 1999), amended this section. Section 20 of ch. 579, Laws, 1999, effective July 1, 1999 (approved April 21, 1999), also amended this section. As set out above, this section reflects the language of Section 20 of ch. 579, Laws, 1999, pursuant to Section 1-3-79 which provides that whenever the same section of law is amended by different bills during the same legislative session, and the effective dates of the amendments are the same, the amendment with the latest approval date shall supersede all other amendments to the same section approved on an earlier date.

Section 2 of ch. 431, Laws of 2011, effective from and after passage (approved March 16, 2011), amended this section. Section 5 of ch. 480, Laws of 2011, effective from and after passage (approved April 6, 2011), also amended this section. As set out above, this section reflects the language of Section 5 of ch. 480, Laws of 2011, which contains language that specifically provides that it supersedes § 65-4-25 as amended by Laws of 2011, ch. 431.

Editor's Note — Laws, 1990, ch. 580, § 10, provides as follows:

"SECTION 10. Any attorney's fees paid as the result of the issuance of bonds under this act shall be in compliance with the limits on attorney's fees for bond issues as adopted by the State Bond Commission. Attorney's fees paid as the result of the issuance of bonds under this act shall be subject to negotiation but in no event shall exceed the limits established by the State Bond Commission. A detailed accounting of all expenses incurred by all persons, firms, corporations, associations or other organizations involved in such bond issues shall be submitted to the State Bond Commission within ninety (90) days after the issuance of such bonds and shall be a matter of public record."

Amendment Notes — The 2010 amendment substituted "shall not exceed Three Hundred Seven Million Five Hundred Thousand Dollars ($307,500,000.00" for "shall not exceed Two Hundred Nine Million, Five Hundred Thousand Dollars ($209,500,000.00)" in the next-to-last sentence in both versions of the section.

The first 2011 amendment (ch. 431) substituted "Until June 30, 2014," for "Until June 30, 2011," in the bracketed language of the first version and substituted "From and after July 1, 2014," for "From and after July 1, 2011," in the bracketed language of the second version.

The second 2011 amendment (ch. 480), substituted "Three Hundred Fifty-Seven Million Five Hundred Thousand Dollars ($357,500.00)" for "Three Hundred Seven Million Five Hundred Thousand Dollars ($307,500,000.00)" in the next-to-last sentence in both versions of the section.

§ 65-4-27. Payment of principal and interest on bonds.

For the payment of the principal of and interest on the bonds issued under Sections 65-4-25 through 65-4-45, the full faith, credit, and taxing power of the State of Mississippi are hereby irrevocably pledged. If the funds appropriated by the Legislature be insufficient to pay the principal of and interest on the bonds as they become due, then the deficiency shall be paid by the State Treasurer from any funds in the State Treasury not otherwise appropriated. All such bonds shall contain recitals on their faces substantially covering the foregoing provisions of this section.

SOURCES: Laws, 1989, ch. 463, § 2, eff from and after passage (approved March 27, 1989).

§ 65-4-29. Terms of bonds; option to redeem; issuance and sale.

[Until June 30, 2014, this section shall read as follows:]

Such bonds as are authorized to be issued under Sections 65-4-25 through 65-4-45 may be executed and delivered by the state at any time and from time to time, may be in such form and denominations and of such terms and maturities, may be in fully registered form or in bearer form registrable either as to principal or interest, or both, may bear such conversion privileges and be payable in such installments and at such time or times not exceeding twenty (20) years from the date thereof, may be payable at such place or places, whether within or without the State of Mississippi, may bear interest payable at such time or times and at such place or places and evidenced in such manner, and may contain such provisions not inconsistent herewith, all as shall be provided in the proceedings of the State Bond Commission under which the bonds are authorized to be issued. Such bonds shall not bear a greater overall maximum interest rate to maturity than that authorized by Section 75-17-101. If deemed advisable by the State Bond Commission, there may be retained in the proceedings under which any such bonds are authorized to be issued an option to redeem all or any part thereof as may be specified in such proceedings, at such price or prices and after such notice or notices and on such terms and conditions as may be set forth in such proceedings and briefly recited or referred to on the face of the bonds, but nothing herein contained shall be construed to confer on the state any right or option to redeem any bonds, except as may be provided in the proceedings under which they shall be issued. The State Bond Commission may sell such bonds on sealed bids at public sale or may negotiate the sale of the bonds for such price as it may determine to be in the best interest of the State of Mississippi. The state may pay all expenses, premiums and commissions which the State Bond Commission may deem necessary or advantageous in connection with the issuance thereof, but solely from the proceeds of the bonds. The issuance by the state of one or more series of bonds shall not preclude it from issuing other series of bonds, but the proceedings under which any subsequent bonds may be issued shall recognize and protect any prior pledge made for any prior issuance of bonds.

[From and after July 1, 2014, this section shall read as follows:]

Such bonds as are authorized to be issued under Sections 65-4-25 through 65-4-45 may be executed and delivered by the state at any time and from time to time, may be in such form and denominations and of such terms and maturities, may be in fully registered form or in bearer form registrable either as to principal or interest, or both, may bear such conversion privileges and be payable in such installments and at such time or times not exceeding twenty (20) years from the date thereof, may be payable at such place or places, whether within or without the State of Mississippi, may bear interest payable at such time or times and at such place or places and evidenced in such manner, and may contain such provisions not inconsistent herewith, all as shall be provided in the proceedings of the State Bond Commission under which the bonds are authorized to be issued. Such bonds shall not bear a greater overall maximum interest rate to maturity than that authorized by Section 75-17-101. If deemed advisable by the State Bond Commission, there may be retained in the proceedings under which any such bonds are authorized to be issued an option to redeem all or any part thereof as may be specified in such proceedings, at such price or prices and after such notice or notices and on such terms and conditions as may be set forth in such proceedings and briefly recited or referred to on the face of the bonds, but nothing herein contained shall be construed to confer on the state any right or option to redeem any bonds, except as may be provided in the proceedings under which they shall be issued. Any such bonds shall be sold on sealed bids at public sale, and for such price as the State Bond Commission determines to be in the best interest of the State of Mississippi, but no such sale shall be made at a price less than par value plus accrued interest to date of delivery of the bonds to the purchaser. The state may pay all expenses, premiums and commissions which the State Bond Commission may deem necessary or advantageous in connection with the issuance thereof, but solely from the proceeds of the bonds. The issuance by the state of one or more series of bonds shall not preclude it from issuing other series of bonds, but the proceedings under which any subsequent bonds may be issued shall recognize and protect any prior pledge made for any prior issuance of bonds.

SOURCES: Laws, 1989, ch. 463, § 3; Laws, 2009, ch. 557, § 28; Laws, 2011, ch. 431, § 3, eff from and after passage (approved Mar. 16, 2011.)

Amendment Notes — The 2011 amendment substituted “Until June 30, 2014,” for “Until June 30, 2011,” in the bracketed language of the first version and substituted “From and after July 1, 2014,” for “From and after July 1, 2011,” in the bracketed language of the second version and made a minor stylistic change in both versions.

§ 65-4-31. Interest rates.

[Until June 30, 2014, this section shall read as follows:]

No bond issued under Sections 65-4-25 through 65-4-45 shall bear more than one (1) rate of interest; each bond shall bear interest from its date to its stated maturity date at the interest rate specified on the bonds; and all bonds of the same maturity shall bear the same rate of interest from date to maturity. All interest accruing on bonds shall be payable semiannually or annually. If bonds are issued in coupon form, no interest payment shall be evidenced by more than one (1) coupon, and neither cancelled nor supplemental coupons shall be permitted. If serial bonds, such bonds shall mature annually, and the first maturity date thereof shall not be more than five (5) years from the date of such bonds.

[From and after July 1, 2014, this section shall read as follows:]

No bond issued under Sections 65-4-25 through 65-4-45 shall bear more than one (1) rate of interest; each bond shall bear interest from its date to its stated maturity date at the interest rate specified on the bonds; and all bonds of the same maturity shall bear the same rate of interest from date to maturity. All interest accruing on bonds shall be payable semiannually or annually, except the first interest coupon attached to any bond may be for any period not exceeding one (1) year. If bonds are issued in coupon form, no interest payment shall be evidenced by more than one (1) coupon, and neither cancelled nor supplemental coupons shall be permitted. If serial bonds, such bonds shall mature annually, and the first maturity date thereof shall not be more than five (5) years from the date of such bonds.

SOURCES: Laws, 1989, ch. 463, § 4; Laws, 1997, ch. 394, § 2; Laws, 2009, ch. 557, § 29; Laws, 2011, ch. 431, § 4, eff from and after passage (approved Mar. 16, 2011.)

Amendment Notes — The 2009 amendment provided for two versions of the section; and in the version effective until June 30, 2011, deleted "except the first interest coupon attached to any bond may be for any period not exceeding one (1) year" from the end of the second sentence.

The 2011 amendment substituted "Until June 30, 2014," for "Until June 30, 2011," in the bracketed language of the first version and substituted "From and after July 1, 2014" for "From and after July 1, 2011" in the bracketed language of the second version.

§ 65-4-33. Notice of sale.

[Until June 30, 2014, this section shall read as follows:]

If the bonds issued under Sections 65-4-25 through 65-4-45 are to be sold on sealed bids at public sale, notice of the sale shall be published at least two (2) times, the first of which shall be made not less than ten (10) days prior to the date of sale, and shall be so published in one or more newspapers having a general circulation in the City of Jackson selected by the State Bond Commission.

[From and after July 1, 2014, this section shall read as follows:]

Notice of the sale of any bonds authorized to be issued under Sections 65-4-25 through 65-4-45 shall be published at least two (2) times, the first of which shall be made not less than ten (10) days prior to the date of sale, and shall be so published in one or more newspapers having a general circulation in the City of Jackson selected by the State Bond Commission.

SOURCES: Laws, 1989, ch. 463, § 5; Laws, 2009, ch. 557, § 30; Laws, 2011, ch. 431, § 5, eff from and after passage (approved Mar. 16, 2011.)

Amendment Notes — The 2011 amendment substituted "Until June 30, 2014," for "Until June 30, 2011," in the bracketed language of the first version and substituted "From and after July 1, 2014," for "From and after July 1, 2011," in the bracketed language of the second version.

§ 65-4-35. Execution of bonds and interest coupons.

All bonds issued under Sections 65-4-25 through 65-4-45 shall be executed on behalf of the state by the manual or facsimile signature of the Chairman of the State Bond Commission and shall be countersigned by the manual or facsimile signature of the Secretary of the State Bond Commission. All coupons shall be executed on behalf of the state by the facsimile signatures of the Chairman and Secretary of the State Bond Commission. If the officers whose signatures or countersignatures appear on the bonds or interest coupons shall cease to be such officers before delivery of the bonds, such signatures or countersignatures shall nevertheless be valid and sufficient for all purposes, the same as if they had remained in office until such delivery, or had been in office on the date such bonds may bear.

SOURCES: Laws, 1989, ch. 463, § 6, eff from and after passage (approved March 27, 1989).

§ 65-4-37. Disbursement of proceeds; payment of costs.

(1) Upon the issuance and sale of bonds under Sections 65-4-25 through 65-4-45, the State Bond Commission shall transfer the proceeds of any such sale or sales to the Economic Development Highway Fund. The proceeds of such bonds shall be disbursed solely upon the order of the Executive Director of the Mississippi Department of Economic Development under such restrictions, if any, as may be contained in the resolution providing for the issuance of the bonds.

(2) The State Bond Commission is authorized to pay the costs that are incident to the sale, issuance and delivery of the bonds authorized under Sections 65-4-25 through 65-4-45 from the proceeds derived from the sale of such bonds.

SOURCES: Laws, 1989, ch. 463, § 7, eff from and after passage (approved March 27, 1989).

Editor's Note — Section 57-1-54 provides that the term "Mississippi Department of Economic Development" appears in any law the same shall mean the Department of Economic and Community Development.

§ 65-4-39. Authority to request and issue warrants to pay principal and interest when due.

The State Treasurer is hereby authorized, without further process of law, to certify to the Fiscal Management Board the necessity for warrants, and the board is hereby authorized and directed to issue such warrants payable out of any funds authorized by Sections 65-4-25 through 65-4-45 for such purpose, in such amounts as may be necessary to pay when due the principal of and interest on all bonds issued under the provisions of Sections 65-4-25 through 65-4-45; and the State Treasurer shall forward the necessary amount to the designated place or places of payment of such bonds in ample time to discharge such bonds, or the interest thereon, on the due dates thereof.

SOURCES: Laws, 1989, ch. 463, § 8, eff from and after passage (approved March 27, 1989).

Editor's Note — Section 27-104-1 provides that the term "Fiscal Management Board" shall mean the "Department of Finance and Administration".

§ 65-4-41. Bonds to be legal investments.

Bonds issued under Sections 65-4-25 through 65-4-45 shall be legal investments for commercial banks, trust companies, savings and loan associations and insurance companies organized under the laws of this state.

SOURCES: Laws, 1989, ch. 463, § 9, eff from and after passage (approved March 27, 1989).

§ 65-4-43. Taxation.

All bonds issued under Sections 65-4-25 through 65-4-45 and the income therefrom shall be exempt from all taxation within the State of Mississippi, except gift, transfer and inheritance taxes.

SOURCES: Laws, 1989, ch. 463, § 10, eff from and after passage (approved March 27, 1989).

§ 65-4-45. Relationship with other laws.

Sections 65-4-25 through 65-4-45, without reference to any other statute, shall be deemed to be full and complete authority for the issuance of such bonds, and shall be construed as an additional and alternative method therefor, and none of the present restrictions, requirements, conditions or limitations of law applicable to the issuance or sale of bonds, notes or other obligations by the state shall apply to the issuance and sale of bonds under Sections 65-4-25 through 65-4-45, and no proceedings shall be required for the issuance of such bonds other than those provided for and required in Sections 65-4-25 through 65-4-45, and all powers necessary to be exercised in order to carry out the provisions of Sections 65-4-25 through 65-4-45 are hereby conferred.

SOURCES: Laws, 1989, ch. 463, § 11, eff from and after passage (approved March 27, 1989).

CHAPTER 5

Controlled Access Facilities

Sec.
65-5-1. Declaration of policy.
65-5-3. Definitions.
65-5-5. Authority to establish.
65-5-7. Design.
65-5-9. Acquisition of property and property rights.
65-5-11. Preference of condemnation cases.
65-5-13. Grade-crossing eliminations.
65-5-15. Authority of local units to consent.
65-5-17. Local service roads.
65-5-19. Penalties for unlawful use.
65-5-21. Automotive service stations prohibited within right of way.
65-5-23. Legislative intent.

§ 65-5-1. Declaration of policy.

The legislature hereby finds, determines, and declares that this chapter is necessary for the immediate preservation of the public peace, health, and safety, and for the promotion of the general welfare.

SOURCES: Codes, 1942, § 8039-01; Laws, 1956, ch. 314, § 1.

§ 65-5-3. Definitions.

For the purpose of this chapter, the following words and phrases as used herein, unless a different meaning is plainly required by the context, shall have the following meanings:

(a) "Controlled-access facility"—A highway or street especially designed for through traffic, and over, from, or to which owners or occupants of abutting land or other persons have no right or easement, or only a controlled right or easement, of access, light, air, or view by reason of the fact that their property abuts upon such controlled-access facility or for any other reason. Such highways or streets may be expressways or freeways open to use by all customary forms of street and highway traffic, or they may be parkways from which trucks, busses, and other commercial vehicles shall be excluded.

(b) "Expressway"—A divided arterial highway for through traffic with full or partial control of access and generally with grade separations at intersections.

(c) "Freeway"—An expressway with full control of access.

(d) "Grade separation"—A crossing of two highways, or a highway and railroad, at different levels.

(e) "Interchange"—A grade separated intersection with one or more turning roadways for travel between the intersecting highways, roads, or streets.

(f) "Parkway"—An arterial highway for non-commercial traffic, with full or partial control of access.

(g) "Service road" or "local service road"—A highway, road, or street which is auxiliary to and located on the side of another highway, road, or street for service to abutting property and adjacent areas and for control of access to such other highway, road, or street.

SOURCES: Codes, 1942, § 8039-02; Laws, 1956, ch. 314, § 2.

§ 65-5-5. Authority to establish.

The highway authorities of the state, counties, cities, towns, and villages, acting alone or in cooperation with each other or with any federal, state, or local agency or any other state having authority to participate in the construction and maintenance of highways, are hereby authorized to plan, designate, establish, regulate, vacate, alter, improve, maintain, and provide controlled-access facilities for public use wherever such authority or authorities are of the opinion that traffic conditions, present or future, will justify such special facilities; however, within cities and villages such authority shall be subject to such municipal consent as may be provided by law. Such highway authorities of the state, counties, cities, villages, and towns, in addition to the specific powers granted in this chapter, shall also have and may exercise, relative to controlled-access facilities, any and all additional authority now or hereafter vested in them relative to highways or streets within their respective jurisdictions. Said units may regulate, restrict, or prohibit the use of such controlled-access facilities by the various classes of vehicles or traffic in a manner consistent with Section 65-5-3.

No existing public street or highway shall be converted into a controlled-access facility except with the consent of the owners of lands abutting said freeway or with the purchase or condemnation of the access rights of said abutting land owners.

Nothing herein shall be construed as requiring the consent of the owners of the abutting lands where a street or highway is constructed, established, or located for the first time as a new way for the use of vehicular or pedestrian traffic.

SOURCES: Codes, 1942, § 8039-03; Laws, 1956, ch. 314, § 3.

Cross References — Eminent domain generally, see §§ 11-27-1 et seq.
Transportation Commission's eminent domain powers, see §§ 65-1-47.

JUDICIAL DECISIONS

1. In general.

Commercial property sustains greater damage from limitation of access to a highway than does residential property. Fraser v. Mississippi State Hwy. Comm'n, 303 So. 2d 456 (Miss. 1974).

Under this statute, if the only thing condemned were the limitation on the right of access of the abutting land owners, at least nominal damages would have to be paid, but the statute does not require the payment of substantial damages as a matter of law if in fact such damages were not sustained by the abutting land owners. Burrage v. Mississippi State Hwy. Comm'n, 302 So. 2d 252 (Miss. 1974).

Reconstruction of an existing highway in such a way as to limit and control general access to and from abutting property, converts it into a "controlled access facility", and entitles the abutter to compensation under this section. Mississippi State Hwy. Comm'n v. Finch, 237 Miss. 314, 114 So. 2d 673 (1959).

Reconstruction of a highway which renders abutting property less accessible to the highway or which makes the approach more inconvenient, constitutes a taking which is compensable. Mississippi State Hwy. Comm'n v. Finch, 237 Miss. 314, 114 So. 2d 673 (1959).

The power of the state highway commission to regulate traffic and entrance into main highways, which may be exercised without compensation in the interest of public safety, does not include power to convert an existing highway into a controlled-access highway. Mississippi State Hwy. Comm'n v. Finch, 237 Miss. 314, 114 So. 2d 673 (1959).

A proceeding to condemn land for a cloverleaf at the intersection of two highways already in existence, which had not been limited access highways, was not controlled by Chapter 332, Laws of 1948, § 14, as amended by § 11 of Ch 6 of the Laws of the Extraordinary Session of 1949 (§ 8038), nor by Ch 314, Laws of 1956 (§§ 8039-01 et seq). Carney v. Mississippi State Hwy. Comm'n, 233 Miss. 598, 103 So. 2d 413 (1958).

RESEARCH REFERENCES

Am Jur. 39 Am. Jur. 2d, Highways, Streets, and Bridges §§ 32 et seq.

CJS. 39A C.J.S., Highways §§ 37 et seq.

§ 65-5-7. Design.

The highway authorities of the state, county, city, town, and village are authorized to so design any controlled-access facility and to so regulate, restrict, or prohibit access as to best serve the traffic for which such facility is intended. In this connection such highway authorities are authorized to divide and separate any controlled-access facility into separate roadways by the construction of raised curbings, central dividing sections, or other physical separations, or by designating such separate roadways by signs, markers, stripes, and the proper lane for such traffic by appropriate signs, markers, stripes, and other devices. No person shall have any right of ingress or egress to, from, or across controlled-access facilities to or from abutting lands except at such designated points at which access may be permitted, upon such terms and conditions as may be specified from time to time.

SOURCES: Codes, 1942, § 8039-04; Laws, 1956, ch. 314, § 4.

JUDICIAL DECISIONS

1. In general.

There is no right of access to controlled access highway or frontage road to such highway except that specifically granted by Highway Department, and granting by Highway Department of revocable or limited permit does not constitute property for which compensation is due upon taking. McDonald's Corp. v. Robinson Indus., Inc., 592 So. 2d 927 (Miss. 1991).

§ 65-5-9. Acquisition of property and property rights.

For the purposes of this chapter, the highway authorities of the state, county, city, town, or village may acquire private or public property and property rights for controlled-access facilities and service roads, including rights of access, air, view, and light, by gift, devise, purchase, or condemnation in the same manner as such units are now or hereafter may be authorized by law to acquire such property or property rights in connection with highways and streets within their respective jurisdictions. All property rights acquired under the provisions of this chapter shall be acquired in accordance with the provisions of Section 65-1-47, and the estate acquired shall be specified in accordance with said section. In connection with acquisition of property or property rights for any controlled-access facility or portion thereof or service road in connection therewith, the state, county, city, town, or village highway authority may, in its discretion, acquire an entire lot, block, or tract of land if, by so doing, the interests of the public will be best served, even though said entire lot, block, or tract is not needed for the right of way proper.

SOURCES: Codes, 1942, § 8039-05; Laws, 1956, ch. 314, § 5.

Cross References — Eminent domain generally, see §§ 11-27-1 et seq.

JUDICIAL DECISIONS

1. In general.

The State Highway Commission has the power to condemn school property. Harrison County Sch. Bd. v. State Hwy. Comm'n, 284 So. 2d 50 (Miss. 1973).

The acquisition by eminent domain of an easement or right-of-way primarily, if not exclusively, for the benefit of a landowner whose means of ingress and egress had been cut off by reason of the acquisition from him of a portion of the right-of-way for a public limited access highway was a mere byproduct of laying out the highway, and being essential for the construction of the highway, was itself a taking for a public use and not violative of § 17 of the Constitution. Mississippi State Hwy. Comm'n v. Morgan, 253 Miss. 398, 175 So. 2d 606 (1965).

Public necessity does not warrant condemnation of land in substitution for a permissive way, where the proposed road would merely connect with another portion of the permissive way. Mississippi State Hwy. Comm'n v. Morgan, 248 Miss. 631, 160 So. 2d 77 (1964).

The construction of a controlled access highway across property involves no taking of a right of access where there is no interference with the property-owner's access to an existing highway. Morris v. Mississippi State Hwy. Comm'n, 240 Miss. 783, 129 So. 2d 367 (1961).

A proceeding to condemn land for a cloverleaf at the intersection of two highways already in existence, which had not been limited access highways, was not controlled by Chapter 332, Laws of 1948, § 14, as amended by § 11 of Ch 6 of the Laws of the Extraordinary Session of 1949 (§ 8038), nor by Ch 314, Laws, of 1956 (§§ 8039-01 et seq). Carney v. Mississippi State Hwy. Comm'n, 233 Miss. 598, 103 So. 2d 413 (1958).

§ 65-5-11. Preference of condemnation cases.

Court proceedings necessary to acquire property or property rights for purposes of this chapter shall take precedence over all other causes not involving the public interest in all courts, to the end that the provisions of controlled-access facilities may be expedited.

SOURCES: Codes, 1942, § 8039-06; Laws, 1956, ch. 314, § 6.

§ 65-5-13. Grade-crossing eliminations.

The highway authority of the state, county, city, town, or village may designate and establish controlled-access highways as new and additional facilities or may designate and establish an existing street or highway as included within a controlled-access facility. The state or any of its subdivisions shall have authority to provide for the elimination of intersections at grade of controlled-access facilities with existing state and county roads and city, town, or village streets by grade separation or service road, or by closing off such roads and streets at the right of way boundary line of such controlled-access facility; and after the establishment of any controlled-access facility, no highway or street which is not part of said facility shall intersect the same at grade unless it be an approved interchange. No city, town, or village street, county or state highway, or other public way shall be opened into or connected with any such controlled-access facility without the consent and previous approval of the highway authority in the state, county, city, town, or village having jurisdiction over such controlled-access facility. Such consent and approval shall be given only if the public interest shall be served thereby.

SOURCES: Codes, 1942, § 8039-07; Laws, 1956, ch. 314, § 7.

§ 65-5-15. Authority of local units to consent.

The highway authorities of the state, city, county, town, or village are authorized to enter into agreements with each other, or with the federal government, respecting the financing, planning, establishment, improvement, maintenance, use, regulation, or vacation of controlled-access facilities or other public ways in their respective jurisdictions, to facilitate the purposes of this chapter.

SOURCES: Codes, 1942, § 8039-08; Laws, 1956, ch. 314, § 8.

§ 65-5-17. Local service roads.

In connection with the development of any controlled-access facility, the state, county, city, town, or village highway authorities are authorized to plan, designate, establish, use, regulate, alter, improve, maintain, and vacate local service roads and streets or to designate as local service roads and streets any existing road or street, and to exercise jurisdiction over service roads in the same manner as is authorized over controlled-access facilities under the terms of this chapter if, in their opinion, such local service roads and streets are necessary or desirable. Such local service roads or streets shall be of appropriate design, and shall be separated from the controlled-access facility proper by means of all devices designated as necessary or desirable by the proper authority.

SOURCES: Codes, 1942, § 8039-09; Laws, 1956, ch. 314, § 9.

JUDICIAL DECISIONS

1. In general.

There is no right of access to controlled access highway or frontage road to such highway except that specifically granted by Highway Department, and granting by Highway Department of revocable or limited permit does not constitute property for which compensation is due upon taking. McDonald's Corp. v. Robinson Indus., Inc., 592 So. 2d 927 (Miss. 1991).

Public necessity does not warrant condemnation of land in substitution for a permissive way, where the proposed road would merely connect with another portion of the permissive way. Mississippi State Hwy. Comm'n v. Morgan, 248 Miss. 631, 160 So. 2d 77 (1964).

§ 65-5-19. Penalties for unlawful use.

It is unlawful for any person (1) to drive a vehicle over, upon, or across any curb, central dividing section, or other separation or dividing line on controlled-access facilities; (2) to make a left turn or a semicircular or U-turn except through an opening provided for that purpose in the dividing curb section, separation, or line; (3) to drive any vehicle except in the proper lane provided for the purpose and in the proper direction and to the right of the central dividing curb, separation section, or line; (4) to drive any vehicle into the controlled-access facility from a local service road except through an opening provided for that purpose in the dividing curb or dividing section or dividing line which separates such service road from the controlled-access facility proper. Any person who violates any of the provisions of this section is guilty of a misdemeanor and, upon arrest and conviction therefor, shall be punished by a fine of not less than five dollars ($5.00) nor more than one hundred dollars ($100.00), or by imprisonment in the city or county jail for not less than five days nor more than ninety days, or by both such fine and imprisonment.

SOURCES: Codes, 1942, § 8039-10; Laws, 1956, ch. 314, § 10.

Cross References — Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

RESEARCH REFERENCES

ALR. Automobiles: liability for U-turn collisions. 53 A.L.R.4th 849.

§ 65-5-21. Automotive service stations prohibited within right of way.

No automotive service station or other commercial enterprise for serving motor vehicle users shall be constructed or located within the right of way of, or on publicly-owned or publicly-leased land acquired or used for or in connection with, a limited access facility or a controlled-access facility.

SOURCES: Codes, 1942, § 8039-10.5; Laws, 1958, ch. 373.

§ 65-5-23. Legislative intent.

It is the intent of the legislature that this chapter provide additional and supplemental means of designating, establishing, altering, improving, and maintaining controlled-access facilities, and it is not intended to repeal nor in any way change any other provision of statute authorizing the establishment, control, and maintenance of limited access facilities, but is supplemental thereto.

SOURCES: Codes, 1942, § 8039-12; Laws, 1956, ch. 314, § 12.

CHAPTER 7

Public Roads and Streets; Private Way

Article 1. Public Roads and Streets 65-7-1
Article 3. Private Way 65-7-201

ARTICLE 1.

PUBLIC ROADS AND STREETS.

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GENERAL PROVISIONS

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§ 65-7-1. Jurisdiction over county roads; width of roads; drainage; inclusion of new roads in official records.

(1) The board of supervisors of each county shall have full jurisdiction over all matters relating to the public roads of the county, including the establishment, laying out, opening, abandonment, altering, changing, working and maintaining of such roads, except as otherwise provided by Section 170 of the Mississippi Constitution of 1890.

(2) All roads now laid out and opened or hereafter laid out and opened according to law shall be deemed public roads and highways and shall be opened and worked at least sixteen (16) feet wide, wherever practicable, and in

any case not less than twelve (12) feet, and any greater width that may be necessary. Ditches and borrow pits shall be kept open or connected so as to drain off the water from the road bed, as far as practicable.

(3) From and after July 1, 2000, no road shall be included as a part of the county road system until and unless the board of supervisors, by appropriate action spread on its minutes, has established or accepted such road and caused the road to be included in the official record of the county road system as provided in Section 65-7-4.

SOURCES: Codes, Hutchinson's 1848, ch. 10, art. 7 (25); 1857, ch. 15, art. 8; 1871, § 2334; 1880, § 821; 1892, § 3887; 1906, § 4394; Hemingway's 1917, § 7074; 1930, § 6310; 1942, § 8286; Laws, 1920, ch. 274; Laws, 1998, ch. 539, § 2, eff from and after July 1, 1998.

Cross References — Requirement that all bridges and culverts be the same width as roadway, see § 65-21-1.

JUDICIAL DECISIONS

1. In general.

A neighborhood road however long it may have been used by the public, does not become a highway in the absence of an assertion by the public of a right of all supervision of it by the county road authorities. Wills v. Reid, 86 Miss. 446, 38 So. 793 (1905).

A neighborhood road does not become a highway because of its use at will for more than ten years by all persons whose convenience was thereby promoted where the same was never laid out or worked by public authority although occasionally repaired by those using it. Burnley v. Mullins, 86 Miss. 441, 38 So. 635 (1905).

A county is liable for damages to land which it wrongfully caused to be covered with water by improper construction of a public causeway. Raney v. Hinds County, 78 Miss. 308, 28 So. 875 (1900).

A right of way over land is not ripened by prescription unless the easement is claimed under color of right and exercised so as to render the claimant liable to an action of trespass in the absence of such right. Board of Supvrs. v. Mastronardi, 76 Miss. 273, 24 So. 199 (1898).

The use of the land of any person as a road although worked by order of the board, does not take away the right of the owner to withdraw his consent to such and to obstruct it within the period of prescription, unless it has been declared a public road according to law. Tegarden v. McBean & Kibbee, 33 Miss. 283 (1857).

ATTORNEY GENERAL OPINIONS

There is no statutory requirement for width of right of way of city streets; any additional area required by city for right of way for city street must be obtained by purchase or eminent domain. Fortier, May 7, 1990, A.G. Op. #90-0296.

A board of supervisors can block or close public access to a county road only under certain limited circumstances. See Sections 65-7-53 (closing of road while under construction); 65-7-37 (regulation of the use of certain roads during bad weather or by certain types of vehicles). See also, Sections 65-7-1 through 65-7-7 (public roads shall be kept open and shall not be obstructed). Ross, July 12, 1996, A.G. Op. #96-0421.

A board of supervisors is not required to create a public road from a private road simply because that road has been brought up to established criteria by private owners. If the board determines that it is in the public's interest or convenience to create a public road from a private road, then the board may do so after entering the appropriate findings on its minutes. Brown, Oct. 24, 2003, A.G. Op. 03-0477.

Sections 65-7-1 and 65-7-3 require that ditches along public roads shall be kept open, connected and of sufficient size to drain off the water from the road bed. A culvert may not be installed for the benefit of an individual but may only be installed in order to benefit the public road. Brooks, Apr. 8, 2005, A.G. Op. 05-0158.

A county board of supervisors may implement and erect road signs pursuant to a countywide Adopt-A-Roadway program displaying the names of the "adopting" entities. White, Feb. 17, 2006, A.G. Op. 06-0025.

RESEARCH REFERENCES

Am Jur. 16 Am. Jur. Proof of Facts 2d 1, Highway Defects — Road Shoulder.

§ 65-7-3. Standard for working roads.

All public roads shall be kept open and worked to the width required by law and, when necessary, shall be raised in the middle and sloped toward the ditches or sides, which shall be kept open and of sufficient size and proper fall to drain the road bed.

SOURCES: Codes, 1892, § 3903; 1906, § 4413; Hemingway's 1917, § 4093; 1930, § 6313; 1942, § 8287.

Cross References — Width of roads required by law, see § 65-7-1.

ATTORNEY GENERAL OPINIONS

Sections 65-7-1 and 65-7-3 require that ditches along public roads shall be kept open, connected and of sufficient size to drain off the water from the road bed. A culvert may not be installed for the benefit of an individual but may only be installed in order to benefit the public road. Brooks, Apr. 8, 2005, A.G. Op. 05-0158.

§ 65-7-4. County road systems; official maps; register; hearings; additions, deletions, and changes.

(1) On or before July 1, 2000, the board of supervisors of each county shall prepare and adopt an official map designating and delineating all public roads on the county road system. Changes to the county road system shall be recorded on this map as soon as is reasonably possible. The map, as it is periodically revised, shall be kept on file in the office of the clerk of the board of supervisors where it shall be available for public inspection.

(2) On or before July 1, 2000, the board of supervisors of each county shall prepare and adopt a county road system register in which shall be entered:

(a) The number and name of each public road on the county road system.

(b) A general reference to the terminal points and course of each such road.

(c) A memorandum of every proceeding in reference to each such road, with the date of such proceeding, and the page and volume of the minute book of the board of supervisors where it is recorded; however, reference to proceedings before July 1, 2000, shall not be required.

(3) Before the initial adoption of the official map and the county road system register, the board of supervisors shall hold a public hearing on the content of the official map and the county road system registry and shall publish notice of the hearing at least one (1) time, not less than two (2) weeks before the date of the hearing, in a newspaper having general circulation in the county.

(4) All subsequent proceedings and changes to the county road system shall be recorded in the county road system register as soon as is reasonably possible. The county road system register, as it is periodically revised, shall be kept on file in the office of the clerk of the board of supervisors where it shall be available for public inspection.

(5) From and after July 1, 2000, the official record of the county road system shall consist of an official map, as provided for in subsection (1) of this section, and the county road system register, as provided for in subsection (2) of this section. The county road system register shall have priority in case of conflict between the register and the official map. The minutes of the board of supervisors containing proceedings with respect to county roads and the county road system shall serve as the official record until such proceedings are recorded on the official map and in the county road system register. The official record of the county road system, at a minimum, shall be revised and updated on or before July 1 of each year.

(6) It is the intention of the Legislature that the initial official record of the county road system prepared and adopted in accordance with this section shall include all public roads that the board of supervisors determines, consistent with fact, as of July 1, 2000, or such date the initial official record is adopted, are laid out and open according to law. From and after July 1, 2000, no road shall be added or deleted from the county road system or otherwise changed except by order or other appropriate action of the board of supervisors and such action shall be recorded in the minutes of the board. All additions, deletions or changes to the county road system shall be recorded in the official record of the county road system as provided for in this section.

SOURCES: Laws, 1998, ch. 539, § 1, eff from and after July 1, 1998.

ATTORNEY GENERAL OPINIONS

The statute required a county board of supervisors to make a determination of the status of a road prior to July 1, 2000, even while private litigation was pending over the road's status as public or private. Clanton, May 12, 2000, A.G. Op. #2000-0264.

Any proceeding or change which materially affects the ability to identify, in whole or in part, a county road which may be worked with public funds should be recorded in the county road system register; a work order or project or state aid status which does not add or delete roads or segments of roads would not need to be included on the register. Ross, Mar. 21, 2003, A.G. Op. #03-0062.

If a road is on the county's official map and road system register, then it is a county road. Pursuant to the authority granted in § 65-7-1, the county may work or maintain county roads. Crow, Oct. 3, 2003, A.G. Op. 03-0454.

Where the dedication of platted but unopened roads was never accepted by the county, it never assumed any obligation to maintain or open the roads as public roads. The simple act of platting a road does not suffice to make the land in question a county road for purposes of county maintenance. Parker, May 14, 2004, A.G. Op. 04-0176.

If a privately constructed road is on the official county map and road system register, the county board of supervisors may legally maintain same. Powell, Apr. 1, 2005, A.G. Op. 05-0115.

Opinions (Dulaney, Jan. 12, 2001, A.G. Op], and Crow, Oct. 3, 2003, A.G. Op. 03-0454) explaining the legislative intent of having a county road map and how a road map may be corrected are referenced. Shepard, Aug. 8, 2005, A.G. Op. 05-0350.

Where a road has not been maintained for more than five years prior to July 2000, nor adopted as part of the county road system in accordance with Section 65-7-4, nor added to the county road system by the board of supervisors or maintained by the board in the six years following the establishment of the county road system, then such road was never a part of the county road system, and such road is not required to be abandoned in accordance with the procedures in Section 65-7-121 (2) in order that it not be considered a public road. Hathorn, Nov. 27, 2006, A.G. Op. 06-0576.

§ 65-7-4.1. Legislative intent.

The Legislature of the State of Mississippi finds and determines as a matter of public policy and legislative intent that the proceedings and public hearing required for initial adoption of the official map and county road system register required by Section 65-7-4, Mississippi Code of 1972, are not intended to lay out, open, designate or otherwise establish new public roads, but to document and record existing roads which are, at the time of the initial adoption of said map and register, adjudicated by the board, consistent with fact, to be public roads by dedication, under the methods provided by statute, or by prescription and required by public convenience and necessity.

SOURCES: Laws, 2000, ch. 407, § 1, eff from and after passage (approved Apr. 17, 2000.)

§ 65-7-5. Order of board of supervisors necessary to change road.

It shall not be lawful for any person to turn, alter, or change any public road unless by order of the board of supervisors, under penalty of Fifty Dollars ($50.00) for each offense; and an old road shall not be obstructed until the new road is in all respects fit for travel.

SOURCES: Codes, Hutchinson's 1848, ch. 10, art. 7 (35); 1857, ch. 15, art. 7; 1871, § 2335; 1880, § 822; 1892, § 3888; 1906, § 4395; Hemingway's 1917, § 7075; 1930, § 6314; 1942, § 8288.

Cross References — Prohibition of use of roads under construction, see § 65-7-53. Procedure for laying out or changing roads, see § 65-7-57.

JUDICIAL DECISIONS

1. In general.

A court is without power to close a public road in private litigation between individuals unless such action is predicated upon a finding that there has been a valid order of the Board of Supervisors closing the road, spread upon its minutes, if it is a county road, or that similar official action has been taken by the State Highway Commission and is reflected by its official records, if it is a state road or highway. Barrett v. Pilgrim, 317 So. 2d 382 (Miss. 1975).

Abandonment of road was shown by minutes of board of supervisors of highways reciting orders appointing road overseers. Noxubee County v. Long, 141 Miss. 72, 106 So. 83 (1925).

Property owner's evidence that he bought land on which highway laid out with understanding that county did not have right of way was admissible. Smith v. Board of Supvrs., 124 Miss. 36, 86 So. 707 (1921).

The board of supervisors may discontinue a public road and surrender the right of the public to use it. Hatch v. Board of Supvrs., 56 Miss. 26 (1878).

If the board discharges the overseer of a road and discontinues it as a public road but directs it to be "kept open as a private right of way," the owner of the fee cannot obstruct it. Hatch v. Board of Supvrs., 56 Miss. 26 (1878).

§ 65-7-7. Road not to be obstructed.

If any person shall fell any bush or tree and leave any portion thereof in any stream or on any public highway, road, or ditch draining the roadway or obstruct the same in any manner whatever, and not immediately remove the obstruction, the overseer of the road shall remove the same, and the person so felling the tree or bush, or otherwise obstructing the road or water shall forfeit and pay all expenses of removing the same, to be recovered before any justice of the peace of the county, in the name of the county. It is the duty of the overseer to cause suit to be commenced therefor, and such person shall be liable for all damages occasioned to another by the obstruction. However, no cattle gap placed on a county road, subject to overflow by the Mississippi River and not protected by levees, shall be considered an obstruction in the public road if such cattle gap is installed with the permission of the board of supervisors and the person installing same also provides a gate adjacent to the road for the passage of stock.

Any violation of this section shall also, upon conviction, be punishable as provided under Section 99-19-31.

SOURCES: Codes, Hutchinson's 1848, ch. 10, art. 7 (32); 1857, ch. 15, art. 24; 1871, § 2361; 1880, § 855; 1892, § 3889; 1906, § 4396; Hemingway's 1917, § 7076; 1930, § 6315; 1942, § 8289; Laws, 1962, ch. 451; Laws, 1972, ch. 473, § 1, eff from and after passage (approved May 8, 1972).

Editor's Note — Pursuant to Miss. Const. Art 6, § 171, "All reference in the Mississippi Code to justice of the peace shall mean justice court judge."

Cross References — Prohibition against obstruction of highways by railroad, see § 77-9-235.

Offense of felling bush or tree onto public highway or into stream or canal, see §§ 97-15-37, 97-15-39.

Offense of placing tacks or glass or other damaging objects on public highways, see § 97-15-31.

Obstruction of plank or covered roads, see § 97-15-35.

JUDICIAL DECISIONS

1. Applicability.
2. Owner enjoined from placing signs.
3. Obstruction not found.

1. Applicability.

Obstruction must prevent passage on a road for the statute to be applicable. Bryant v. Bd. of Supervisors, 10 So. 3d 919 (Miss. Ct. App. 2008).

2. Owner enjoined from placing signs.

Property owner was enjoined under Miss. Code Ann. § 65-7-7 from interfering with a road based on his act of placing metal "no trespassing" signs thereon because the road had been dedicated to a county, which had accepted it by making certain improvements; moreover, any improper widening of the road did not affect the owner's property. Hawkins v. Smith County, 954 So. 2d 526 (Miss. Ct. App. 2007).

3. Obstruction not found.

Summary judgment was properly awarded to a county board of supervisors in plaintiffs' action to recover damages for injuries sustained after their vehicle collided with a mailbox on the shoulder of a road because the mailbox was not an obstruction as it did not impede or prevent traffic from traveling on the road. Bryant v. Bd. of Supervisors, 10 So. 3d 919 (Miss. Ct. App. 2008).

ATTORNEY GENERAL OPINIONS

County may not permit United States Forest Service to place gate across county road. Jones, August 5, 1992, A.G. Op. #92-0588.

In general, cattle gap is not obstruction to public road; if board determines that particular cattle gap is obstruction to public road, it will be subject to removal at direction of board of supervisors, pursuant to their constitutional and statutory authority over county roads, unless cattle gaps meet statutory exception provided in Section 65-7-7. Allen, Jan. 12, 1994, A.G. Op. #93-0926.

Pursuant to Section 65-7-7 the county cannot legally permit a gate to be placed across the public street so as to permit access by the general public only from 5:00 a.m. until 10:00 p.m. Hyche, March 22, 1996, A.G. Op. #96-0129.

A board of supervisors can block or close public access to a county road only under certain limited circumstances. See Sections 65-7-53 (closing of road while under construction); 65-7-37 (regulation of the use of certain roads during bad weather or by certain types of vehicles). See also, Sections 65-7-1 through 65-7-7 (public roads shall be kept open and shall not be obstructed). Ross, July 12, 1996, A.G. Op. #96-0421.

There is no prohibition against a private security guard recording information from automobile license plates of all vehicles entering a subdivision or providing directions to a motorist; however, there is no authority for a private security guard to stop or detain automobiles entering or leaving a subdivision. Toney, June 19, 1998, A.G. Op. #98-0356.

A board of supervisors may, pursuant to its police power and jurisdiction over roads and bridges, remove unsaleable vehicles constituting a safety hazard located on the public right-of-way. Sherard, April 9, 1999, A.G. Op. #99-0174.

RESEARCH REFERENCES

ALR. Liability of governmental unit for collision with safety and traffic-controlled devices in traveled way. 7 A.L.R.2d 226.

Liability of private owner or occupant of land abutting highway for injuries or damage resulting from tree or limb falling onto highway. 94 A.L.R.3d 1160.

Liability, in motor vehicle-related cases, of governmental entity for injury, death, or property damage resulting from defect or obstruction in shoulder of street or highway. 19 A.L.R.4th 532.

Governmental liability for failure to reduce vegetation obscuring view at railroad crossing or at street or highway intersection. 22 A.L.R.4th 624.

Liability of private landowner for vegetation obscuring view at highway or street intersection. 69 A.L.R.4th 1092.

Am Jur. 40 Am. Jur. 2d, Highways, Streets, and Bridges §§ 310 et seq.

13A Am. Jur. Pl & Pr Forms (Rev), Highways, Streets, and Bridges, Forms 211 et seq. (liability of abutting owners and others; building materials or other substances placed or left in way).

32 Am. Jur. Proof of Facts 2d 389, Wrongful Interference with Right of Way.

Law Reviews. Ogletree, A primer concerning industrial timber litigation with emphasis upon Mississippi law. 59 Miss. L. J. 387, Fall 1989.

§ 65-7-9. Dangerous trees to be removed from road.

The board of supervisors of any county shall have the right, upon the application of any member thereof or any overseer, road commissioner or the county road manager, to condemn any dead or dangerous trees or timber near any public road which endangers the safety of the public travel. On the failure or refusal of the owner to cut and remove such trees or timbers, the board may assess the value thereof and pay or tender the owner of such trees or timber the said assessed value thereof by warrant on the county treasury, and such trees or timber shall be cut, felled or removed by the proper authorities working or maintaining such road. The owner of such trees or timber shall have five (5) days' notice of such assessment and, if dissatisfied with such valuation, an appeal may be had to the circuit court as in other cases.

SOURCES: Codes, 1930, § 6316; 1942, § 8290; Laws, 1924, ch. 219; Laws, 1988, Ex Sess, ch. 14, § 33, eff from and after October 1, 1989.

ATTORNEY GENERAL OPINIONS

A county has the authority to remove a tree from private property under the authority granted to the board of supervisors in Section 65-7-9 The board must fully comply with the statute before removing any tree. Dulaney, Nov. 14, 2005, A.G. Op. 05-0523.

RESEARCH REFERENCES

ALR. Liability of governmental unit for injuries or damage resulting from tree or limb falling onto highway from abutting land. 95 A.L.R.3d 778.

Liability of private landowner for vegetation obscuring view at highway or street intersection. 69 A.L.R.4th 1092.

Am Jur. 39 Am. Jur. 2d, Highways, Streets, and Bridges §§ 226, 282.

13A Am. Jur. Pl & Pr Forms (Rev), Highways, Streets, and Bridges, Forms 151 et seq. (liability of public agencies and authorities; trees and limbs).

27 Am. Jur. Proof of Facts 2d 639, Failure to Exercise Due Care to Prevent Fall of Tree.

Law Reviews. Ogletree, A primer concerning industrial timber litigation with emphasis upon Mississippi law. 59 Miss. L. J. 387, Fall 1989.

§ 65-7-11. Hedges on roadside to be trimmed.

When hedges are planted along any public road, the owner of the land shall trim the hedges on the side next to the road and keep them trimmed, so that travelers will not be inconvenienced thereby. If the hedges intrude upon any road, the overseer shall give written notice to the owner or occupant of the land to have the hedges trimmed within ten days after notice, so as not to obstruct the road or interfere with travelers; otherwise, the owner or occupant shall be guilty of a misdemeanor and, on conviction, punished as for obstructing a public highway. Such owner or occupant shall forfeit two dollars per day for every day's failure to comply with such notice, to be recovered by action.

SOURCES: Codes, 1857, ch. 15, art. 25; 1871, § 2362; 1880, § 356; 1892, § 3890; 1906, § 4398; Hemingway's 1917, § 7078; 1930, § 6317; 1942, § 8291.

RESEARCH REFERENCES

ALR. Liability of private landowner for vegetation obscuring view at highway or street intersection. 69 A.L.R.4th 1092.

Am Jur. 39 Am. Jur. 2d, Highways, Streets, and Bridges §§ 226, 282.

CJS. 40 C.J.S., Highways §§ 253-255.

§ 65-7-13. Public highways to be marked.

For all counties where this has not already been done, the state highway department or the state highway engineer shall prepare and file with the clerk of the board of supervisors of the said several counties of the state, plans and specifications for highway sign or guide boards, showing the construction, size, material, color, and how said sign or guide boards are to be erected on the roads or highways within the said several counties. All such specifications are to be uniform, so as to obtain a uniform system of highway sign or guide board markers throughout the state.

SOURCES: Codes, 1930, § 6318; 1942, § 8292; Laws, 1926, ch. 224.

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

Cross References — Definition of the phrase, "official traffic control device," see § 63-3-133.

Duties of boards of supervisors as to said signs, see § 65-7-15.

§ 65-7-15. Board of supervisors to erect signs.

The board of supervisors of the several counties of the state shall forthwith erect or cause to be erected, at all forks, crossroads or road intersections on all of the state highways and all other principal roads within their county, sign or guide boards in compliance with specifications theretofore furnished by the state highway department or state highway engineer.

SOURCES: Codes, 1930, § 6319; 1942, § 8293; Laws, 1926, ch. 224.

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

Cross References — Filing of specifications for sign and guide boards, see § 65-7-13.

Color and construction of signs and guide boards, see § 65-7-17.

Abandonment by board of supervisors of any section of the county road system, see § 65-7-121.

JUDICIAL DECISIONS

1. In general.

This section refers to the placement of directional road signs as opposed to traffic control signs. Jones v. Mississippi DOT, 744 So. 2d 256 (Miss. 1999).

RESEARCH REFERENCES

ALR. Liability of governmental unit for collision with safety and traffic-controlled devices in traveled way. 7 A.L.R.2d 226.

Liability of governmental unit or private owner or occupant of land abutting highway for injuries or damage sustained when motorist strikes tree or stump on abutting land. 100 A.L.R.3d 510.

§ 65-7-17. Color and construction of sign or guide boards.

All such sign or guide boards throughout the entire state shall be of uniform size, construction, color, and erection. Said sign or guide boards shall show thereon the next city, town, or village to be reached by following each fork of said road, and the distance to be traveled along such road to reach said city, town, or village. All such sign or guide boards as may be erected at forks or crossroads on the main or trunk roads within such county shall indicate direction along said road and distance to the county seat of the county or the principal city, town, or village within said county, and the principal city, town, or village within next adjoining county located on such main or trunk roads.

SOURCES: Codes, 1930, § 6320; 1942, § 8294; Laws, 1926, ch. 224.

§ 65-7-19. Mandamus available to erect signs.

In case the boards of supervisors of the several counties or if any one of them fail or refuse to erect or cause to be erected such sign or guide boards as provided in Sections 65-7-15 and 65-7-17, then upon a petition to the circuit court by as many as twenty-five qualified electors, who are also taxpayers on real property in the county, joining in said petition, the remedy by way of mandamus shall apply and shall be fully available to enforce the provisions of the said two sections. The said petitioners of the number and qualifications aforesaid shall be deemed to possess all the necessary interest and to be fully entitled to demand, in the proceeding by mandamus, the enforcement by the court of all the duties aforementioned, and the court may upon the trial make all proper orders fully for said enforcement.

SOURCES: Codes, 1930, § 6321; 1942, § 8295; Laws, 1926, ch. 224.

Cross References — Petition for erection of highway danger zone signs, see § 65-7-25.

§ 65-7-21. Signs not to be damaged.

The board of supervisors of the several counties and the overseers shall, at all times after the erection of the sign or guide boards as provided, see that said sign or guide boards are not defaced, removed, or destroyed. In case of defacement, removal, or destruction of any such sign or guide board, the board of supervisors shall cause a new sign or guide board to be erected within ninety days; and on failure so to do, the duty may be enforced as provided in Section 65-7-19.

SOURCES: Codes, 1930, § 6322; 1942, § 8296; Laws, 1926, ch. 224.

Cross References — Penalty for damaging or destroying sign boards, see § 97-15-1.

§ 65-7-23. Defacing, removing or destroying signs or traffic control devices prohibited; penalties; liability for cost of repair; liability of parents of minor.

(1) Any person willfully defacing, removing, marring, damaging or destroying any sign or guide board, including any railroad crossing sign or flasher signal, or other traffic control device erected as provided shall be guilty of a misdemeanor and, upon conviction thereof, shall be liable for the actual cost of replacing or repairing such sign and shall be fined not less than Two Hundred Dollars ($200.00) nor more than Five Hundred Dollars ($500.00), or be imprisoned in the county jail not more than six (6) months, or be punished by both such fine and imprisonment. If the offender is a minor, the parents of such minor shall be civilly liable in accordance with Section 93-13-2 for the actual cost of replacing or repairing the sign, signal or device.

(2) The penalties prescribed in subsection (1) of this section shall also be applicable to any person, and to the parents of any minor, who willfully defaces, mars or damages any bridge, underpass or overpass.

(3) Any person who violates subsection (1) of this section regarding a memorial, other historical or cultural marker or sign, the value of which is Five Hundred Dollars ($500.00) or more, shall be guilty of a misdemeanor, and, upon conviction, shall be imprisoned in the county jail for up to six (6) months or fined up to One Thousand Dollars ($1,000.00), or both. Such person shall also be ordered to make full restitution.

SOURCES: Codes, 1930, § 6323; 1942, § 8297; Laws, 1926, ch. 224; Laws, 1977, ch. 323, § 1; Laws, 1993, ch. 483, § 1; Laws, 2010, ch. 351, § 1, eff from and after July 1, 2010.

Amendment Notes — The 2010 amendment added (3).

Cross References — Penalty for destroying or defacing sign boards, see § 97-15-1.

Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

RESEARCH REFERENCES

ALR. Measure and elements of damages for injury to bridge. 31 A.L.R.5th 171.

§ 65-7-25. Signal boards for highway "danger zones."

The boards of supervisors of the several counties of this state are required, within sixty days after receipt of a petition signed by twenty-five or more regular travelers of any public highway within their respective county, to have prepared and properly posted along said highway certain sign or signal boards at such intervals as may be deemed necessary to avoid danger for speedy travel, not exceeding four to the mile, with such inscriptions written thereon as will sufficiently warn the traveling public of the danger zones thereon.

SOURCES: Codes, Hemingway's 1921 Supp. § 7259h; 1930, § 6324; 1942, § 8298; Laws, 1918, ch. 220.

Cross References — Specifications for signal boards, see § 65-7-27.

Provision of double sign boards for extremely dangerous places, see § 65-7-29.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. Trials 241, Actions Against Road Contractors For Inadequate Warning of Construction Hazards.

18 Am. Jur. Proof of Facts 2d 487, Highway Defects — Warning Device.

§ 65-7-27. Specifications for signal boards.

Said signal or signboards shall be made of some suitable material with a face of not less than twelve by eighteen inches (12″ x 18″), which shall be painted white with the lettering or inscription thereon printed or written in black. The inscription upon said signal or signboards shall consist of the following words, to wit: "danger zone" or some like suitable inscription; and the same, when so done, shall constitute sufficient notice to all travelers along said road of any and all defects in said road within said danger zone.

SOURCES: Codes, Hemingway's 1921 Supp. § 7259i; 1930, § 6325; 1942, § 8299; Laws, 1918, ch. 220.

§ 65-7-29. Double boards for dangerous places.

At such intervals on said road as may be deemed extremely dangerous, such board shall be double faced, with said inscription on each side thereof, and shall be placed in such manner as to be easily seen by travelers at night when proper lights upon vehicles are reflected thereon.

SOURCES: Codes, Hemingway's 1921 Supp. § 7259j; 1930, § 6326; 1942, § 8300; Laws, 1918, ch. 220.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. Trials 241, Actions Against Road Contractors For Inadequate Warning of Construction Hazards.

18 Am. Jur. Proof of Facts 2d 487, Highway Defects — Warning Device.

§ 65-7-31. Payment of signal board expenses.

The expense of preparing and erecting said signal or signboard shall be paid out of the road funds of the county.

SOURCES: Codes, Hemingway's 1921 Supp. § 7259k; 1930, § 6327; 1942, § 8301; Laws, 1918, ch. 220.

§ 65-7-33. Vehicles to sound warnings in danger zone.

All wheeled vehicles traveling over or upon said roads so designated by said signal or signboards, when operated by steam, gas, or electricity, shall be equipped with a whistle, horn, or other signal which shall be duly sounded upon approaching said danger zones, so indicated by said signal or signboards.

SOURCES: Codes, Hemingway's 1921 Supp. § 7259l; 1930, § 6328; 1942, § 8302; Laws, 1918, ch. 220.

§ 65-7-35. Penalty for violating danger zone laws.

Any person guilty of a violation of Sections 65-7-25 through 65-7-33 shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than Five Dollars ($5.00) for each violation.

SOURCES: Codes, Hemingway's 1921 Supp. § 7259m; 1930, § 6329; 1942, § 8303; Laws, 1918, ch. 220.

Cross References — Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

§ 65-7-37. Regulation of use of certain roads.

Whenever in the discretion of the board of supervisors of any county it seems proper to do so, the board of supervisors may, by order duly entered on its minutes, regulate the use of any hard surfaced or graveled public road in the county by prescribing what kind of wheels may be used on vehicles on said public roads and by prohibiting the use thereon of vehicles using cleats or spikes on wheels. But such order shall, before being in full force and effect, be published in a newspaper published in the county for three (3) consecutive weeks, whereupon such order shall be in full force and effect.

In the event of inclement weather, floods, or other causes wherein immediate nonuse of any of such roads is necessary, the supervisor of the district may enter his proclamation prohibiting the use of said road for such period of time as he deems necessary for the proper preservation thereof, or enter his proclamation regulating the type of traffic that may use such road. However, at the next meeting of the board of supervisors, such supervisor as has entered such a proclamation must present his proclamation to the entire board for its action thereon, and if the full board declines to enter an order in the manner set forth in the next preceding paragraph hereof, then the proclamation of such supervisor shall be null and void and of no further effect. Notice of such proclamation at each public entrance, intersection with another public road, shall be sufficient notice of the proclamation of the supervisor.

This section shall not be construed as to authorize the board of supervisors to prohibit vehicles with spiked or cleated wheels from crossing or going from one side of said road to another, and shall only be construed so as to authorize said board of supervisors to prohibit the use of said spiked or cleated wheels on said public roads.

This section shall not be so construed as to apply to state built or constructed highways or federal aid roads, and shall only be construed to apply to public roads maintained by the county.

Any person going upon any hard surfaced road or portion thereof in such county with any kind of vehicle, or who shall cause any such vehicle to be driven upon any such hard surfaced road in such county in violation of such regulations or orders, shall be guilty of a misdemeanor and, upon conviction therefor, shall be fined in the sum of not exceeding Fifty Dollars ($50.00) and shall moreover be liable severally to any county or road district for any damage done such roads by such illegal act.

As to any county which is required to operate on a countywide system of road administration as described in Section 19-2-3, the duties of a supervisor under this section relating to the issuance of a proclamation shall be performed by the road manager of the county.

SOURCES: Codes, 1942, § 8304; Laws, 1938, ch. 321; Laws, 1962, ch. 267; Laws, 1988 Ex Sess, ch. 14, § 34, eff from and after October 1, 1989.

Cross References — Powers of local authorities to regulate use of highways, see § 63-3-211.

Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

ATTORNEY GENERAL OPINIONS

A board of supervisors can block or close public access to a county road only under certain limited circumstances. See Sections 65-7-53 (closing of road while under construction); 65-7-37 (regulation of the use of certain roads during bad weather or by certain types of vehicles). See also, Sections 65-7-1 through 65-7-7 (public roads shall be kept open and shall not be obstructed). Ross, July 12, 1996, A.G. Op. #96-0421.

There is no authority for the board of supervisors to ban or limit the type of trucks, i.e. gravel trucks, traveling over county roads without regard to size or weight. Sherard, Aug. 30, 2002, A.G. Op. #02-0501.

RESEARCH REFERENCES

Am Jur. 39 Am. Jur. 2d, Highways, Streets, and Bridges §§ 246 et seq.

CJS. 40 C.J.S., Highways §§ 302, 304-307 et seq.

§ 65-7-39. Traveling on public roads.

All drivers of carriages or other vehicles, whether of burden or pleasure, using any public road shall keep to the right hand when met by another carriage or vehicle and when overtaken by another carriage or vehicle, so as in both cases to permit the carriage or vehicle so meeting or overtaking to pass free and uninterrupted. Any person wilfully offending against this provision shall be guilty of a misdemeanor and, on conviction, fined Five Dollars ($5.00) for each offense; and if injury result therefrom, the person so offending shall be subject to an action for damages at the suit of the party injured.

SOURCES: Codes, 1857, ch. 15, art. 32; 1871, § 2370; 1880, § 864; 1892, § 3902; 1906, § 4412; Hemingway's 1917, § 7092; 1930, § 6331; 1942, § 8305.

Cross References — Employment and duties of county patrol officers, see §§ 45-7-1 et seq.

Powers of local authorities to regulate use of roads, see § 63-3-211.

Other statutory provisions regarding driving on the right side of roadway, see §§ 63-3-601 et seq.

Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

JUDICIAL DECISIONS

1. In general.

This section applies only to highways other than streets. Pallotta v. Jackson Light & Traction Co., 107 Miss. 61, 64 So. 938 (1914).

Team meeting another standing on right side of street was justified by necessity in passing on left. Pallotta v. Jackson Light & Traction Co., 107 Miss. 61, 64 So. 938 (1914).

RESEARCH REFERENCES

ALR. Liability for collision due to swaying or swinging of motor vehicle or trailer. 1 A.L.R.2d 167.

Duty and liability of one driving motor vehicle in or along rut, ridge, or the like, in highway. 10 A.L.R.2d 901.

Am Jur. 7A Am. Jur. 2d, Automobiles and Highway Traffic §§ 174 et seq.

CJS. 40 C.J.S., Highways §§ 282-284, 319-321et seq.

§ 65-7-41. Rate of travel over bridges.

It shall not be lawful for any person to drive a wagon, carriage, or other vehicle of any description drawn by animal power or to ride, leap, or drive any horse, mule, or any description of cattle over or upon any bridge erected in any county by authority of the board of supervisors or in a city, town, or village at a faster gait than a walk; and every person so offending shall be guilty of a misdemeanor and, on conviction, fined Five Dollars ($5.00). But the board of supervisors or municipal authorities shall cause to be fixed up and kept at each end of the bridge, in some conspicuous place, a board on which shall be painted in large letters, "Five Dollars ($5.00) fine for riding or driving any animal over this bridge at a faster gait than a walk"; and on neglect of such notice, such fine shall not be incurred.

SOURCES: Codes, 1857, ch. 15, art. 40; 1871, § 2378; 1880, § 872; 1892, § 3939; 1906, § 4452; Hemingway's 1917, § 7136; 1930, § 6332; 1942, § 8306.

Cross References — Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

RESEARCH REFERENCES

Am Jur. 7A Am. Jur. 2d, Automobiles and Highway Traffic §§ 149, 205, 328, 600, 674, 675.

§ 65-7-43. Prevent damage and protect public roads.

The board of supervisors of any county pursuant to the maximum load limits established in Chapter 5, Title 63, Mississippi Code of 1972, and the posting authority granted in Section 63-5-27(5) may declare what is or may be an unusual or uncommon load or weight to be conveyed on or over the roads, bridges or approaches of any bridges in the county; shall have power to protect their roads and bridges from any unusual or uncommon use where the same is likely to injure or impair their usefulness as public highways; and may recover damages for injuries.

SOURCES: Codes, 1906, § 4397; Hemingway's 1917, § 7077; 1930, § 6333; 1942, § 8307; Laws, 1983, ch. 332, § 1, eff from and after passage (approved March 14, 1983).

Cross References — Size, weight, and load of vehicles, see §§ 63-5-7 et seq.
Permits for excess size and weight, see § 63-5-51.
Load limitations, see §§ 65-7-45 et seq.

JUDICIAL DECISIONS

1. In general.
County board of supervisors regulation restricting maximum weight of vehicles on certain road to 30,000 pounds found to comply with § 65-7-43 and § 65-7-45, despite contention that by not relating weight limit to number of axles statute did not serve valid purpose. Waste Control, Inc. v. Tart, 506 So. 2d 286 (Miss. 1987).

The Warren County Board of Supervisors violated §§ 65-7-43 and 65-7-45 when it restricted the maximum weight of vehicles traveling on a road in the county to 30,000 pounds without regard to tire width. Andrews v. Waste Control, Inc., 409 So. 2d 707 (Miss. 1982).

ATTORNEY GENERAL OPINIONS

There is no authority for the board of supervisors to ban or limit the type of trucks, i.e. gravel trucks, traveling over county roads without regard to size or weight. Sherard, Aug. 30, 2002, A.G. Op. #02-0501.

RESEARCH REFERENCES

ALR. Power to limit weight of vehicle or its load with respect to use of streets or highways. 75 A.L.R.2d 376.

Am Jur. 21 Am. Jur. Proof of Facts 2d 251, Public Authority's Failure to Repair Pothole in Surface of Highway or Street.

Law Reviews. Ogletree, A primer concerning industrial timber litigation with emphasis upon Mississippi law. 59 Miss LJ 387, Fall 1989.

§ 65-7-45. Maximum loads of vehicles.

The board of supervisors of any county in this state may, at the discretion of such board, regulate the maximum load of any vehicle using the public roads and bridges of such county, or any section or length of any public road, or any particular bridge in such county by order spread on its minutes, which order shall, before being in full force and effect, be first published in a newspaper published in the county for three (3) consecutive weeks, whereupon such resolution shall be in force and effect.

SOURCES: Codes, Hemingway's 1921 Supp. § 7259w; 1930, § 6334; 1942, § 8308; Laws, 1918, ch. 204; Laws, 1983, ch. 332, § 2, eff from and after passage (approved March 14, 1983).

JUDICIAL DECISIONS

1. In general.
County board of supervisors regulation restricting maximum weight of vehicles on certain road to 30,000 pounds found to comply with § 65-7-43 and § 65-7-45, despite contention that by not relating weight limit to number of axles statute did not serve valid purpose. Waste Control, Inc. v. Tart, 506 So. 2d 286 (Miss. 1987).

The Warren County Board of Supervisors violated §§ 65-7-43 and 65-7-45 when it restricted the maximum weight of vehicles traveling on a road in the county to 30,000 pounds without regard to tire width. Andrews v. Waste Control, Inc., 409 So. 2d 707 (Miss. 1982).

ATTORNEY GENERAL OPINIONS

There is no authority for the board of supervisors to ban or limit the type of trucks, i.e. gravel trucks, traveling over county roads without regard to size or weight. Sherard, Aug. 30, 2002, A.G. Op. #02-0501.

A "code enforcement officer" hired by a county with duties related to overweight vehicles on county roads and enforcing county ordinances regarding litter and illegal dumping would be authorized to sign a criminal affidavit and present same to the appropriate justice court. This employee would have no power to arrest or stop vehicles. Creekmore, Dec. 8, 2006, A.G. Op. 06-0582.

RESEARCH REFERENCES

ALR. Power to limit weight of vehicle or its load with respect to use of streets or highways. 75 A.L.R.2d 376.

Am Jur. 7A Am. Jur. 2d, Automobiles and Highway Traffic §§ 174 et seq.

Law Reviews. 1982 Mississippi Supreme Court Review: Administrative Law: Workmen's Compensation. 53 Miss. L. J. 113, March 1983.

Ogletree, A primer concerning industrial timber litigation with emphasis upon Mississippi law. 59 Miss. L. J. 387, Fall 1989.

§ 65-7-47. Penalty for violating load and tire regulations.

Any person going upon any public road or bridge in such county with any kind of vehicle, or who shall cause any vehicle to be driven upon any public road or bridge in such county, in violation of such regulations shall be guilty of a misdemeanor and upon conviction be fined in any sum not exceeding Fifty Dollars ($50.00), and shall moreover be liable civilly to any county or road district for any damage done to such roads or bridges by such illegal act.

SOURCES: Codes, Hemingway's 1921 Supp. § 7259x; 1930, § 6335; 1942, § 8309; Laws, 1918, ch. 204.

Cross References — Liability for damage to highway or structure, see § 63-5-53.

Notice of load and tire regulations, see § 65-7-49.

Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

RESEARCH REFERENCES

Am Jur. 40 Am. Jur. 2d, Highways, Streets, and Bridges §§ 668 et seq.

§ 65-7-49. Posting notices.

[With regard to any county which is exempt from the provisions of Section 19-2-3, this section shall read as follows:]

It shall be the duty of all road overseers and road commissioners whose road is affected by the order of the board of supervisors provided by Sections 65-7-43 through 65-7-47 to see that a notice thereof is posted at conspicuous places on such road at intervals of not less than two (2) miles and at the approaches to any bridge affected thereby; but a failure to post such notice shall not be allowed as a defense to a criminal prosecution or civil suit under the provisions of this chapter.

[With regard to any county which is required to operate on a countywide system of road administration as described in Section 19-2-3, this section shall read as follows:]

It shall be the duty of the county road manager whenever a county road is affected by the order of the board of supervisors provided by Sections 65-7-43 through 65-7-47 to see that a notice thereof is posted at conspicuous places on such road at intervals of not less than two (2) miles and at the approaches to any bridge affected thereby; but a failure to post such notice shall not be allowed as a defense to a criminal prosecution or civil suit under the provisions of this chapter.

SOURCES: Codes, Hemingway's 1921 Supp. § 7259y; 1930, § 6336; 1942, § 8310; Laws, 1918, ch. 204; Laws, 1988 Ex Sess, ch. 14, § 35, eff from and after October 1, 1989.

Cross References — Abandonment by board of supervisors of any section of the county road system, see § 65-7-121.

§ 65-7-51. Repealed.

Repealed by Laws, 1983, ch. 332, § 3, eff from and after passage (approved March 14, 1983).

[Codes, Hemingway's 1921 Supp. § 7259z; 1930, § 6337; 1942, § 8311; Laws, 1918, ch. 204]

Editor's Note — Former § 65-7-51 related to the form of notice required by § 65-7-49.

§ 65-7-53. Use of roads while under construction.

[With regard to any county which is exempt from the provisions of Section 19-2-3, this section shall read as follows:]

Whenever in the discretion of the board of supervisors of any county it seems proper so to do, the board may, by order on its minutes, authorize the commission of any road district within the county, or the engineer of such commission, to forbid the use of any hard surfaced road, or portion thereof, when under construction or repair. The Highway Commission or its engineer, when so authorized by the board of supervisors, may close said road or any portion thereof to travel by an obstruction placed thereon in such manner as to indicate its closing, or by a sign marked "closed by order of the Highway Commission."

[With regard to any county which is required to operate on a countywide system of road administration as described in Section 19-2-3, this section shall read as follows:]

Whenever in the discretion of the board of supervisors of any county it seems proper so to do, the board may, by order on its minutes, authorize the road manager of the county or the county engineer to forbid the use of any hard surfaced road, or portion thereof, when under construction or repair. The county road manager or the engineer, when so authorized by the board of supervisors, may close said road or any portion thereof to travel by an obstruction placed thereon in such manner as to indicate its closing, or by a sign marked "closed by order of the county road manager (or county engineer)."

SOURCES: Codes, Hemingway's 1921 Supp. § 7259t1; 1930, § 6338; 1942, § 8312; Laws, 1920, ch. 264; Laws, 1988 Ex Sess, ch. 14, § 36, eff from and after October 1, 1989.

Cross References — Necessity of order of board of supervisors to alter or change any public road, see § 65-7-5.

Duties of road commissioners generally, see § 65-19-29.

ATTORNEY GENERAL OPINIONS

A board of supervisors can block or close public access to a county road only under certain limited circumstances. See Sections 65-7-53 (closing of road while under construction); 65-7-37 (regulation of the use of certain roads during bad weather or by certain types of vehicles). See also, Sections 65-7-1 through 65-7-7 (public roads shall be kept open and shall not be obstructed). Ross, July 12, 1996, A.G. Op. #96-0421.

RESEARCH REFERENCES

ALR. Highway construction contractor's liability for injuries to third persons by materials or debris on highway during course of construction or repair. 3 A.L.R.4th 770.

Am Jur. 26 Am. Jur. Trials 241, Actions Against Road Contractors For Inadequate Warning of Construction Hazards.

§ 65-7-55. Penalty for forbidden use of roads.

Any person who uses such road while the same is closed, or removes such obstruction or sign, shall be guilty of a misdemeanor and shall be fined not less than Twenty-five Dollars ($25.00) and not more than One Hundred Dollars ($100.00), and shall be responsible in damages to the highway commission for all damage done to the highway in violation of Section 65-7-53.

SOURCES: Codes, Hemingway's 1921 Supp. § 7259u1; 1930, § 6339; 1942, § 8313; Laws, 1920, ch. 264.

Cross References — Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

§ 65-7-57. Petition to have roads laid out or changed.

When any person shall desire to have a public road other than a road being maintained by the state highway department laid out, altered, or changed, a petition shall be presented to the board of supervisors of the county, signed by ten or more freeholders or householders of the county interested in the road, setting forth the commencement and termination and general course thereof and that the public interest or convenience requires the road to be laid out and opened or altered or changed, as shown in the petition. The petitioners, if not owners of the land through which the road runs or is proposed to be run, or if the land through which the road runs or is proposed to run is owned by the county or a municipality, shall give a copy of the same to the president of the board of supervisors if the county is the owner of the land, or to the mayor if a municipality is the owner thereof, and shall give five days' notice to the owners of the land in person, or by leaving the same at their residence if they reside in the county, or if the owners be nonresidents of the county, by putting up the notice in some conspicuous place on the land through which the road runs or is proposed to run. Thereupon the board of supervisors shall hear the parties, and if it determine that the prayer of the petitioners ought to be granted, in whole or in part, it shall appoint a committee of two members, of districts other than that of the road or proposed road, who shall examine and view the contemplated route of the road. If they find the same practicable, they shall lay out and mark the road, or the alteration or change, and report their proceedings in writing to the board at its next meeting.

SOURCES: Codes, Hutchinson's 1848, ch. 10, art. 9(1); 1857, ch. 15, art. 1; 1871, § 2336; 1880, § 823; 1892, § 3892; 1906, § 440; Hemingway's 1917, § 7080; 1930, § 6340; 1942, § 8314; Laws, 1926, ch. 226.

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

Cross References — Report of committee, see § 65-7-59.

Judicial review of proceedings of the board of supervisors in laying out, altering, or changing public road, see § 65-7-67.

Abandonment by board of supervisors of any section of the county road system, see § 65-7-121.

JUDICIAL DECISIONS

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2. Public necessity.
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8. Creation by prescription.
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1. In general.

This section permits any person to file an application with the board of supervisors requesting the board to lay out a public road, and of necessity the application for the road may describe a right-of-way across the lands of many individual owners, and Code 1942, § 8419 provides that the application of an individual for a private road is subject to the same procedure set forth in this section. Rotenberry v. Renfro, 214 So. 2d 275 (Miss. 1968).

Board laying out and opening highway must find jurisdictional fact that ten signers of petition were freeholders or householders of county. Aden v. Board of Supvrs., 142 Miss. 696, 107 So. 753 (1926).

This section is applicable to county highways only and not to public streets. Illinois Cent. R.R. v. State, 94 Miss. 759, 48 So. 561 (1909).

Every jurisdictional fact should appear affirmatively of record. Craft v. Desoto County, 79 Miss. 618, 31 So. 204 (1901).

Under this section the board acts in the exercise of a limited special statutory authority under the rules of law applicable to such authority. Craft v. Desoto County, 79 Miss. 618, 31 So. 204 (1901); State v. Morgan, 79 Miss. 659, 31 So. 338 (1901).

This statute does not do away with the common-law method of establishing highways, but is designed to prescribe a mode by which private property may be taken for public use for the establishment of public roads. Kinnare v. Gregory, 55 Miss. 612 (1878).

This statute regulating the mode and manner of exercising jurisdiction over roads, ferries and bridges is constitutional. Jefferson County Supvrs. v. Arrighi, 54 Miss. 668 (1877).

2. Public necessity.

The courts will not interfere with the decision of the board as to public interest or convenience unless there is manifestly no reasonable basis for the action of the board. Board of Supvrs. v. Blissitt, 200 Miss. 645, 27 So. 2d 678 (1946).

Where board of supervisors did not adjudicate on minutes that public interest or convenience required establishment of public road, order condemning right of way was void. Ferguson v. Board of Supvrs., 149 Miss. 623, 115 So. 779 (1928).

Whether public necessity demands new road petitioned for is matter addressed to discretion of the board. Strahan v. Board of Supvrs., 91 Miss. 529, 44 So. 857 (1907).

3. Parties.

The householders of a community who would gain half a mile by a new road in going to church, school, the neighborhood store and the county seat are sufficiently "interested in the road" to qualify as petitioners, and, although their qualification is a jurisdictional question, judicial in nature, such determination of that issue by the board has the same force as a jury verdict. Board of Supvrs. v. Blissitt, 200 Miss. 645, 27 So. 2d 678 (1946).

4. Hearing.

Where petition was presented and petitioner's witnesses were present and statement was made as to what would be proved by them, it was sufficient hearing. Strahan v. Board of Supvrs., 91 Miss. 529, 44 So. 857 (1907).

5. Effect of irregularities in proceedings.

A judgment of a board of supervisors ordering a highway to be laid out from which no appeal was prosecuted, cannot be attacked for mere irregularities by a railroad company when proceeded against to compel it to erect a bridge over the approach to its track from the highway crossing. Illinois Cent. R.R. v. Swalm, 83 Miss. 631, 36 So. 147 (1904).

A judgment of the board is not void because of a provision requiring the petitioners to pay the expenses of laying it out and maintaining it for three years or because three commissioners were appointed to lay it out instead of two as required by this section [Code 1942, § 8314]. Illinois Cent. R.R. v. Swalm, 83 Miss. 631, 36 So. 147 (1904).

6. Appeals.

The Mississippi Supreme Court would remand to a circuit court for its remand to a County Board of Supervisors for further proceedings regarding the layout of a public road, where the board's order appointing two of the board members as a committee to inspect the proposed road site was not a final order, adjudicating in fact that a road at the proposed location would be laid out and established, from which an appeal could be taken. De La Beckwith v.

State, 615 So. 2d 1134 (Miss. 1992), cert. denied, 510 U.S. 884, 114 S. Ct. 232, 126 L. Ed. 2d 187 (1993).

The Circuit Court on appeal could not permit issues to be raised and tried that were not tried in the special court of eminent domain and the sole question to be determined there was the compensation awarded, and the trial court properly overruled the condemnees' affirmative defenses based upon the contention that the board of supervisors failed to comply with the provisions of Code 1942, § 8314 regarding the opening or changing of public roads. Wallace v. Board of Supvrs., 210 So. 2d 49 (Miss. 1968).

7. Jurisdiction over road.

Where a county entered an order to alter and widen a public road which traversed the lands of appellants, the county had jurisdiction notwithstanding the fact that the road had been taken over for maintenance and construction by the state highway department by an order of the state highway commission, where commission's order would not be effective until certain conditions were met. McRaney v. Covington County, 210 Miss. 192, 49 So. 2d 248 (1950).

A survey by state and aid in construction of a road would not divest the county and invest the State with jurisdiction of the road since that must be done by affirmative act of the Legislature. Stigall v. Sharkey County, 207 Miss. 188, 42 So. 2d 116 (1949).

County has jurisdiction over road so as to make it liable for damage resulting from an overflow caused by improper construction of road where county followed method prescribed by this section notwithstanding State Highway Department and WPA workers did part of the actual construction of the road, with permission of the county supervisors. Stigall v. Sharkey County, 207 Miss. 188, 42 So. 2d 116 (1949).

8. Creation by prescription.

Evidence before county board of supervisors which, at most, established continuous public use of a road for more than ten years, was insufficient to establish by prescription that the road was public. Ladner v. Harrison County Bd. of Supvrs., 793 So. 2d 637 (Miss. 2001).

A public highway may be created by prescription or by dedication and continued user when taken in connection with the working of the road for nearly 20 years at public expense should be deemed to have been a sufficient acceptance. Armstrong v. Itawamba County, 195 Miss. 802, 16 So. 2d 752 (1944).

In the absence of an order of the board of supervisors, or other record evidence showing that the roadway had been designated as a public road, public user and working and maintaining of roadway across defendants' land by public authorities at public expense for 17 years, without objection of defendants were sufficient to put them on notice that public authorities were asserting a right to deal with the road as part of the road system in the district, and to establish an easement for public road purposes by prescription by adverse user for the period prescribed by law, so as to preclude defendants from placing gates across or otherwise obstructing such road. Armstrong v. Itawamba County, 195 Miss. 802, 16 So. 2d 752 (1944).

9. Taking of property.

Board of supervisors in proceedings condemning right of way for public highway exercises limited statutory authority. Ferguson v. Board of Supvrs., 149 Miss. 623, 115 So. 779 (1928).

Power of eminent domain being in derogation of common right, statute conferring power to condemn land for public highway must be strictly construed. Ferguson v. Board of Supvrs., 149 Miss. 623, 115 So. 779 (1928).

Lands may be condemned for public roads only when it is shown to board of supervisors that public interest or convenience requires them. Ferguson v. Board of Supvrs., 149 Miss. 623, 115 So. 779 (1928).

Statute held to authorize occupancy by county of land condemned for highway purposes in advance of actual payment. Hinds County v. Johnson, 133 Miss. 591, 98 So. 95 (1923).

One whose lands are taken by the board of supervisors without the notice required by this section may sue the county for damages and is not confined to the remedy prescribed by Code 1892, § 3894 (Code 1906, § 4402). County of Copiah v. Lusk, 77 Miss. 136, 24 So. 972 (1899).

10. Liability of supervisors.

An appropriation of public funds for the construction or maintenance of private roads or driveways is to an object not authorized by law and a member of board of supervisors was personally liable for maintenance of private roads. Coleman v. Shipp, 223 Miss. 516, 78 So. 2d 778 (1955).

In a suit against member of board of supervisors and his surety to recover costs of maintenance of roads alleged to be private roads, where statutory proceedings for construction of roads leading from public roads to residence were void on the ground that the board of supervisors did not adjudicate that ten persons who signed a petition for laying out and opening of the roads were freeholders of the county interested in road and public interest required the road to be laid out, the board of supervisors did not have jurisdiction and the supervisor in whose district the roads were located was personally liable. Coleman v. Shipp, 223 Miss. 516, 78 So. 2d 778 (1955).

11. Miscellaneous.

It was never the legislative policy of this state, as portrayed by this section, that a supervisor and a private landowner could establish a public road by the landowner asking the supervisor from his district to "build him a road" by or to the landowner's residence or across his property, upon the landowner consenting to furnish the land. Saxon v. Harvey, 190 So. 2d 901 (Miss. 1966).

This section neither contemplates nor condones the use of public equipment, materials or labor on private projects for the benefit of individual landowners. Saxon v. Harvey, 190 So. 2d 901 (Miss. 1966).

In a proceeding to have private road laid out through the owner's land, where the petitioners did not offer to pay the owner proposed easement but merely offered the cost of constructing road and did not sign a petition in a manner as to agree to any offer therein contained as to payment of damages, etc., and did not attempt to acquire easement by contract or purchase, and where some of the petitioners owned lands in the area to be served by the private road had access to their land over other road, the board of supervisors was without authority to sustain their petition. Roberts v. Prassenos, 219 Miss. 486, 69 So. 2d 215 (1954).

Description of road across defendant's land in action to enjoin defendants from obstructing such road, designating the road to be "as it now runs across the lands of the defendants," the proof showing without substantial conflict that it now runs along the same location where it had been traveled and used for more than 50 years, and stating the point of beginning, the direction of its course, and its terminus at a point on another public road therein named, at or near a certain residence, was a sufficient description of such road to show its location. Armstrong v. Itawamba County, 195 Miss. 802, 16 So. 2d 752 (1944).

Property owner's evidence that he bought land on which highway laid out with understanding that the county did not have right of way was admissible. Smith v. Board of Supvrs., 124 Miss. 36, 86 So. 707 (1921).

ATTORNEY GENERAL OPINIONS

The developer of an established subdivision may subsequently dedicate the streets in the subdivision to the county without complying with this section. However, for the streets to be considered public through dedication, the streets or dedication thereof must also be accepted by the county. Shepard, Sept. 3, 2003, A.G. Op. 03-0409.

A board of supervisors is not required to create a public road from a private road simply because that road has been brought up to established criteria by private owners. If the board determines that it is in the public's interest or convenience to create a public road from a private road, then it may do so after entering the appropriate findings on its minutes. Brown, Oct. 24, 2003, A.G. Op. 03-0477.

Homeowners may dedicate or deed a private road to a county and the board of supervisors may, but is not required to, accept the road upon a finding of public convenience and necessity. Hudson, Apr. 2, 2004, A.G. Op. 04-0118.

The number of landowners signing the petition described in Section 65-7-57 is a factor which must be considered by the board of supervisors. Welch, Mar. 10, 2006, A.G. Op. 06-0023.

Any landholder affected by the proposed road and not signing the petition shall be provided notice in accordance with Section 65-7-57. Welch, Mar. 10, 2006, A.G. Op. 06-0023.

RESEARCH REFERENCES

Am Jur. 39 Am. Jur. 2d, Highways, Streets, and Bridges §§ 32 et seq.

9A Am. Jur. Legal Forms 2d, Highways, Streets, and Bridges §§ 134:23 et seq. (petitions and applications).

CJS. 39A C.J.S., Highways §§ 36 et seq.

§ 65-7-59. Report of committee.

The report of the committee may be set aside by the board of supervisors, for sufficient cause, and a new committee appointed at the discretion of the board; but if confirmed, the report shall be entered at large in the minutes of the board.

SOURCES: Codes, 1857, ch. 15, art. 3; 1871, § 2338; 1880, § 825; 1892, § 3893; 1906, § 4401; Hemingway's 1917, § 7081; 1930, § 6341; 1942, § 8315.

JUDICIAL DECISIONS

1. In general.

When one appears before the board and makes certain specific objections to the report of those laying out the road, he will be held to have waived objections not then made. Sullivan v. Lafayette County Bd. of Supvrs., 58 Miss. 790 (1881).

§ 65-7-61. Damages for taking land.

When any owner of land or other person shall claim compensation for land taken for a public road, or for damages sustained by the construction of a road, he shall petition the board of supervisors, in writing, at the next meeting after the laying out of the road or at the meeting when the report thereof shall be returned, setting forth the nature and character of the damages claimed, whereupon the board shall, on five days' notice to the petitioner, go upon the premises and assess the damages sustained by him. The finding of the board shall be in writing, signed by the members agreeing to it, and must be entered on the minutes at the next meeting; but if the damages sustained and claimed be less than the cost of assessing, the board may allow the same without inquiry.

SOURCES: Codes, Hutchinson's 1848, ch. 10, art. 9(3); 1857, ch. 15, art. 4; 1871, § 2339; 1880, § 826; 1892, § 3894; 1906, § 4402; Hemingway's 1917, § 7082; 1930, § 6342; 1942, § 8316.

Cross References — Eminent domain generally, see §§ 11-27-1 et seq.

Review of proceedings by circuit court, see § 65-7-67.

Payment for rights of way taken from drainage district, see § 65-7-71.

Taking of materials necessary for road building from adjoining land, and compensation therefor, see § 65-7-101.

JUDICIAL DECISIONS

1. In general.

Landowner may bring action for damage to real property caused by construction of drainage canal notwithstanding failure of property owner to first present claim to county board of supervisors, as required by statute (§ 65-7-61) where damage constitutes violation of Mississippi Constitution and where violation takes place in absence of prior notice. Runge v. Necaise Constr. Co., 467 So. 2d 666 (Miss. 1985).

This section does not apply to a claim for damages caused by the erosion of a county-constructed drainage ditch not dug for the benefit of a public road. Dorsey v. Adams County, 246 Miss. 369, 149 So. 2d 493 (1963).

The provision here made for compensating persons across whose lands a highway has been laid out do not provide an adequate remedy for one whose lands are flooded in consequence of the obstruction of a natural drainway by a highway embankment. Douglas v. Wayne County, 243 Miss. 637, 139 So. 2d 372 (1962).

In a proceeding to have private road laid out through the owner's land, where the petitioners did not offer to pay the owner proposed easement but merely offered the cost of constructing road and did not sign a petition in a manner as to agree to any offer therein contained as to payment of damages, etc., and did not attempt to acquire easement by contract or purchase, and where some of the petitioners owned lands in the area to be served by the private road had access to their land over other road, the board of supervisors was without authority to sustain their petition. Roberts v. Prassenos, 219 Miss. 486, 69 So. 2d 215 (1954).

In an action against the county for damages resulting from construction of a county road, the measure of damages for the destruction or injury to crop is its value at the time and place of destruction. Stigall v. Sharkey County, 213 Miss. 798, 58 So. 2d 5 (1952).

State highway commission was not liable for negligence of its engineers in so constructing ditches on sides of highway as to cause water of creek to overflow farm lands. State Hwy. Comm'n v. Knight, 170 Miss. 60, 154 So. 263 (1934).

A county is not liable to one whose property is damaged by the negligent or tortious construction of a causeway by a road overseer in the absence of directions from the board of supervisors as to how it should be made. Raney v. Hinds County, 78 Miss. 308, 28 So. 875 (1900).

This section authorizes a county to pay damages caused by the construction of a public causeway. Raney v. Hinds County, 78 Miss. 308, 28 So. 875 (1900).

One whose lands have been taken for a public road without the notice to him required by Code 1942, § 4400 may sue the county for damages and is not limited to the remedy prescribed by this section. County of Copiah v. Lusk, 77 Miss. 136, 24 So. 972 (1899).

The devolution of the duty upon the owner to institute proceedings to obtain damages is constitutional. Cage v. Trager, 60 Miss. 563 (1882).

The damages are not restricted to the value of the land taken, but include and extend to damage to the estate by the subtraction of the part taken and that caused by the use to which it is to be put. Sullivan v. Lafayette County Bd. of Supvrs., 58 Miss. 790 (1881).

RESEARCH REFERENCES

ALR. Private improvement of land dedicated but not used as street as estopping public rights. 36 A.L.R.4th 625.

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 128 et seq.

§ 65-7-63. Water to be drained from roads.

The board of supervisors shall have power, whenever necessary, to drain water off the public roads through and over the adjacent lands, and damages may be allowed and paid to the owners of said adjacent lands in the same manner as is provided in regard to locating public roads.

SOURCES: Codes, 1906, § 4403; Hemingway's 1917, § 7083; 1930, § 6343; 1942, § 8317.

Cross References — Payment from county treasury of damages caused by water drainage, see § 65-7-65.

JUDICIAL DECISIONS

1. In general.

Some public bodies can do work on private property. Mississippi State Hwy. Comm'n v. Wood, 487 So. 2d 798 (Miss. 1986).

This section does not apply to a claim for damages caused by the erosion of a county-constructed drainage ditch not dug for the benefit of a public road. Dorsey v. Adams County, 246 Miss. 369, 149 So. 2d 493 (1963).

§ 65-7-65. Damages paid from county treasury.

The damages assessed and allowed by the board shall be paid out of the county treasury.

SOURCES: Codes, 1892, § 3895; 1906, § 4404; Hemingway's 1917, § 7084; 1930, § 6344; 1942, § 8318.

RESEARCH REFERENCES

Am Jur. 21 Am. Jur. Proof of Facts 2d 251, Public Authority's Failure to Repair Pothole in Surface of Highway or Street.

§ 65-7-67. Review by circuit court.

All proceedings of the board of supervisors in laying out, altering, or changing any public road and assessing damages therefor may be reviewed by the circuit court in respect to any matter of law arising on the face of the proceedings; and on the question of damages the cause may be tried anew, and the damages may be assessed by a jury if the owners of the land so desire. The board of supervisors shall grant appeals for that purpose, when prayed for, on the appellant giving bond for the costs in such penalty as the board may require, not exceeding Two Hundred Dollars ($200.00), payable to the county; and such bond shall have the same effect and be subject to the same proceedings as appeal bonds in other cases. Any person interested and a taxpayer may appeal in like manner and with like effect from the action of the board in assessing, allowing, or disallowing damages in opening or changing a road. If the road laid out or changed is a part of a federal aid project, such appeal to, and such review by, the circuit court shall be without supersedeas and only after the assessment of damages herein provided; on such appeal and review, all of the proceedings involving the taking of land for a public road and assessing damages therefor, and otherwise, shall be before the circuit court for consideration on such review and appeal. If the road laid out or changed is a part of a federal aid project, after the board of supervisors has confirmed the report of the committee examining and viewing the contemplated route of a road and finding the same practicable, such road may be opened, worked, constructed, and used, and such opening, working, constructing, and using of said road shall not be stopped or held up by appeal, by writ of supersedeas, writ of certiorari, direct appeal, other method of appeal, review, by writ of prohibition, or otherwise after the board of supervisors has entered an order on its minutes to the effect that the county shall be liable to the landowner for all damages sustained by such laying out, working, and construction of such road and the taking of the land therefor; and the board of supervisors shall have actually deposited the amount assessed as damages with the clerk of the circuit court, subject to the order of the landowner.

SOURCES: Codes, 1857, ch. 15, art. 9; 1871, § 2342; 1880, § 830; 1892, § 3896; 1906, § 4405; Hemingway's 1917, § 7085; 1930, § 6345; 1942, § 8319; Laws, 1928, ch. 155.

Cross References — Damages for taking of land, see § 65-7-61.
Taking of land by eminent domain by board of supervisors, see § 65-7-89.
Obtaining materials for construction of roads from nearby land, see § 65-7-101.

JUDICIAL DECISIONS

1. In general.

The bill of exceptions required by § 11-51-75 is necessary to vest the circuit court with subject matter jurisdiction in all appeals from boards of supervisors, regardless of the issues presented. (Overruling Evans v. Sharkey County, 89 Miss 302, 42 So 173 (1906)). Thus, the failure to obtain and file a bill of exceptions as prescribed by § 11-51-75 was fatal to an appeal prosecuted under § 65-7-67. McIntosh v. Amacker, 592 So. 2d 525 (Miss. 1991).

The circuit court has authority to review the proceedings of the board of supervisors in respect to any matter of law arising on the face of the proceedings granting a right of way for a public or private road, as well as to grant a new trial on the question of damages. Rotenberry v. Renfro, 214 So. 2d 275 (Miss. 1968).

That a highway is a federal-aid project does not affect the jurisdiction of a chancery court to grant relief against the obstruction of a natural drainway by a highway embankment. Douglas v. Wayne County, 243 Miss. 637, 139 So. 2d 372 (1962).

Injunction to enjoin board of supervisors from laying out and opening up public road was properly denied, since complainant had an adequate remedy at law under statute providing for review of proceedings of board on such matters. Blakely v. Board of Supvrs., 171 Miss. 652, 158 So. 483 (1935).

Law authorizing appeal from proceeding of board of supervisors, laying out, altering, or changing road, does not exclude review by certiorari. Ferguson v. Seward, 146 Miss. 613, 111 So. 596 (1927).

On appeal from order of board of supervisors laying out road, bond must be filed and approved before board adjourns. Semmes v. Board of Supvrs., 127 Miss. 84, 89 So. 811 (1921).

Circuit court had no jurisdiction over judgment of board of supervisors in absence of appeal bond. Miller v. Johnson, 122 Miss. 467, 84 So. 455 (1920).

§ 65-7-69. Roads on rights of way of drainage districts.

The board of supervisors may construct public roads along the side of and on the right of way of drainage canals or on any levees of any drainage districts of their respective counties, and for this purpose may use the dumps of earth taken from any canal or ditch, either as a road bed or otherwise, provided that no such road shall be constructed without the consent of the commissioners of the drainage district affected, and paying all damages to landowner. Before establishing and constructing said public road, a written resolution of the commissioners of the drainage district agreeing to the establishing of said road shall be presented to the board of supervisors, and said resolution shall be and constitute a part of the order of the board of supervisors establishing the public road. Said road shall not be so constructed as to interfere with the drainage of lands in the drainage district, and the same shall not be so constructed as to hinder or impede the drainage canals for the use and purpose for which they were constructed.

SOURCES: Codes, Hemingway's 1921 Supp. § 7259r1; 1930, § 6346; 1942, § 8320; Laws, 1920, ch. 263.

Cross References — Construction of bridges across drainage ditches, see §§ 51-29-95, 51-31-95.

Payment for rights of way so taken, see § 65-7-71.

JUDICIAL DECISIONS

1. In general.

In an action against the county for damages resulting from construction of a county road, the measure of damages for the destruction or injury to crop is its value at the time and place of destruction. Stigall v. Sharkey County, 213 Miss. 798, 58 So. 2d 5 (1952).

§ 65-7-71. Payment for right of way so taken.

Where the board of supervisors of any county uses the right of way or ditch banks or any levee of any drainage district created in this state, it may pay to the treasurer of the respective drainage districts the value of any right of way taken for road purposes, as done with private individuals.

SOURCES: Codes, Hemingway's 1921 Supp. § 7259s1; 1930, § 6347; 1942, § 8321; Laws, 1920, ch. 263.

Cross References — Damages for taking land for public road, see § 65-7-61.

§ 65-7-73. Roads into experiment stations.

In any county in the State of Mississippi in which there is located a branch experiment station, the boards of supervisors of such counties are hereby authorized, in their discretion, to open up, lay out, construct, and maintain public roads into and across the land owned by the State of Mississippi and used in connection with said branch experiment station. No petition shall be required to have such road opened up, laid out, constructed, and maintained, but the boards of supervisors of such counties are authorized to proceed with such work when requested so to do by the manager in charge of said branch experiment station. Boards of supervisors are hereby authorized to expend the funds of said county in opening up, laying out, constructing, and maintaining said roads.

SOURCES: Codes, 1942, § 8321.5; Laws, 1948, ch. 194, § 1.

§ 65-7-74. Roads, driveways and parking areas on public school property.

The board of supervisors of any county is hereby authorized, in its discretion, to construct, maintain and/or repair roads, driveways and parking areas into and on all property owned by any public school district within such county, and the expenditure of funds for such construction, repairs and maintenance is hereby authorized from any available funds.

SOURCES: Laws, 1974, ch. 342, eff from and after passage (approved March 14, 1974).

ATTORNEY GENERAL OPINIONS

There is no authority empowering board of supervisors to perform general maintenance or other work on school grounds for purposes other than roads, driveways, and parking areas as expressly enumerated in Section 65-7-74. Palmer, Feb. 24, 1994, A.G. Op. #93-0793.

There is no authority that would allow a county to reimburse a school board for an expenditure the school board made prior to any contract or interlocal agreement becoming effective, and without prior authorization by the county. Gex, February 12, 1999, A.G. Op. #98-0797.

A county board of supervisors may expend funds for materials (asphalt, dirt, gravel, etc.) necessary to construct, maintain and/or repair roads, driveways and parking areas into and on all property owned by any public school district within such county. Barefield, Oct. 10, 2003, A.G. Op. 03-0544.

§ 65-7-75. Line roads.

Whenever it is necessary to lay out a public highway at or near or along the line between two adjoining counties, and on account of the topography of the land it is not expedient to lay out said road on the line between said adjoining counties, then the boards of supervisors of both counties may lay out the road near the adjoining line between said counties, and both of said counties shall bear the expense of constructing and maintaining such public road in any proportion mutually agreed upon by the boards of supervisors of both of said counties.

SOURCES: Codes, 1942, § 8329; Laws, 1932, ch. 216.

§ 65-7-77. Counties may work roads in adjoining counties.

(1) Whenever the board of supervisors of any county finds that any public road, bridge, or causeway located in a contiguous county and leading therefrom and into that county is not properly worked or is not kept in good repair by the county in which same is located, and finds that its own county would be benefited by the proper working and repairing of such public road, bridge, or causeway, then in such event the board of supervisors of the county which would be benefited is authorized and empowered, in its discretion, to cause to be constructed, improved, worked, repaired, and maintained, at the expense of the county which would be benefited, any such public road, bridge, or causeway for a distance not exceeding three and one-half miles beyond the line of the county which would be benefited, provided that the board of supervisors of the county in which such public road, bridge, or causeway is located shall consent thereto. The board of supervisors of any county which would be benefited is authorized and empowered, for and in the name of such county, to make all necessary contracts for the construction, improving, working, repairing, or maintaining of such public road, bridge, or causeway as herein provided, and to pay for the same either out of the general funds of the benefited county or out of the proceeds of the bonds of such benefited county, issued as otherwise provided by law, either for such purpose or for such purpose and any other lawful purpose. In instances where one or more, or parts of one or more, townships of any county are cut off from convenient communication with the county seat of last said county, either by the interposition of the territory of a contiguous county or by a watercourse or other body of water or by both, then the board of supervisors of the county which would be benefited or whose communication with its county seat is so obstructed or interfered with as aforesaid may, at its discretion and with the consent of the board of supervisors of such contiguous county, lay out, open, construct, improve, work, repair, and maintain, or construct, improve, work, repair, or maintain if already laid out, opened, or established, as much as three and one-half miles in length of road in or through a contiguous county, and pay for the same as hereinabove provided.

(2) Whenever the board of supervisors of any county finds by order or resolution entered upon its minutes that it is to the best interest of the citizens of said county for it so to do, that a public necessity therefor exists, and that said county would be benefited thereby, it is authorized and empowered in its discretion to cause to be constructed or reconstructed, at the expense of such county, such portion as it may elect of any public road lying in a contiguous county which extends from the county line of such county into such contiguous

county, together with one or more connecting roads leading therefrom located in the contiguous county. The construction or reconstruction of the public road lying in a contiguous county which extends from the county line of such county into such contiguous county may be paid for out of county road funds, state aid road funds, or such other funds as may be available therefor. However, state aid road funds shall not be used to construct or reconstruct any connecting road located in the contiguous county, and the county constructing or reconstructing said connecting roads may pay therefor only from county road funds or such funds as may be available therefor other than state aid road funds. In the event state aid funds are used in connection with the exercise of the power and authority granted in this subsection, the state aid engineer's duties, responsibilities, and authority with respect thereto shall be the same as that provided by the law governing state aid projects.

Before exercising any rights or authority granted in this subsection, the board of supervisors of the county proposing to take advantage of the authority herein contained shall secure the consent of the board of supervisors of the contiguous county, which consent shall be evidenced by an order or resolution of the board of supervisors of the contiguous county and spread upon its minutes.

(3) The boards of supervisors of any two adjoining counties may, by an agreement spread upon the minutes of the board of each of such counties, join together in the construction, reconstruction, improvement, working, repair, or maintenance of any public road, bridge, or causeway, including the approaches to such bridge or causeway, located partly in each of such counties, or benefiting each of such counties, for a distance of not exceeding three and one-half miles beyond the county line in either of such counties, and may jointly perform such work or jointly award contracts therefor and jointly pay the cost thereof, as provided in said agreement between said boards, from funds authorized by law for roads, bridges, or causeways located entirely within either of such counties. Such an agreement may be terminated in whole or in part by a succeeding board of supervisors of either of such counties, provided, however, that each of such counties shall remain obligated to pay its respective part of any outstanding obligations connected with or arising from said joint project. Unless the board of each county agrees otherwise, upon termination of such an agreement the responsibilities of future construction, reconstruction, improvement, working, repair, or maintenance on such road, bridge, or causeway shall be that of the county in which the respective parts thereof are located.

SOURCES: Codes, 1930, § 6356; 1942, § 8322; Laws, 1928, ch. 80; Laws, 1968, ch. 293, § 1; Laws, 1970, ch. 443, § 1, eff from and after passage (approved April 3, 1970).

ATTORNEY GENERAL OPINIONS

A county's conventional authority over its public roads does not include the authority to do road work in another state on a road which lies partially in the State of

Mississippi; however, the county may wish to explore the use of a Regional Economic Alliance to pursue the project. Chamberlin, Jan. 29, 2004, A.G. Op. 03-0643.

If there is some discrepancy as to which county a culvert is to be installed, the Board of Supervisors may, with the contiguous county's Board of Supervisors' consent, work and maintain a public road for a distance not to exceed three and one-half miles beyond the county to be benefitted from the work or maintenance. This would also include the road right-of-ways. Brooks, Apr. 8, 2005, A.G. Op. 05-0158.

RESEARCH REFERENCES

CJS. 40 C.J.S., Highways § 178, 189.

§ 65-7-79. Counties may join with municipalities in keeping up roads.

The board of supervisors of any county in which a main highway in said county runs through several municipalities in said county, and lies partly within said municipalities and partly without, may join in and co-operate with the said municipalities in the joint construction, improvement, and maintenance of said highway, and out of the county road and bridge fund may pay a proportionate part of the cost of such construction, improvement, and maintenance, the municipalities also paying their proportionate parts. The board of supervisors may distribute its pro rata part of such cost over a period of not exceeding five annual payments and may direct its president to execute the notes of the county for said annual payments, to draw interest at a rate not exceeding six percent (6%) per annum.

SOURCES: Codes, Hemingway's 1917, § 3808; 1930, § 6359; 1942, § 8323; Laws, 1914, ch. 180; Laws, 1926, ch. 231.

Cross References — Concurrent jurisdiction over streets by board of supervisors and municipal authorities, see § 65-7-83.

Abandonment by board of supervisors of any section of the county road system, see § 65-7-121.

Improvement of public highways extending into municipalities by county, see § 65-19-81.

ATTORNEY GENERAL OPINIONS

The Board of Supervisors of a county and the governing authorities of a town within the county may enter into an agreement evidenced by an order on the minutes of both subdivisions authorizing the board of supervisors to assist the municipality by providing road equipment and/or employees and county fuel to repair or replace a bridge within the city limits. Robinson, Nov. 1, 1991, A.G. Op. #91-0779.

Counties and cities may enter into interlocal agreements to jointly construct and maintain roads and streets inside the municipality located in the county. However, because a municipality is without authority to construct and maintain roads outside the municipality it cannot enter into such an interlocal agreement. See Sections 17-13-9(1)(c) and 17-13-11. Gardner, January 10, 1996, A.G. Op. #95-0827.

A county and several cities have the

authority to appropriate money to initiate a preliminary engineering and environmental assessment phase of a thoroughfare project without an Interlocal Agreement. McAdams, April 17, 1998, A.G. Op. #98-0195.

Sections 65-7-79, 65-7-83, and 65-7-85 permit boards of supervisors to perform road and bridge work within a municipality. Tullos, January 29, 1999, A.G. Op. #99-0025.

§ 65-7-81. State highways within or without municipalities.

[With regard to any county which is exempt from the provisions of Section 19-2-3, this section shall read as follows:]

The board of supervisors of any county in the state may construct, reconstruct, maintain, or contribute to the construction, reconstruction, and maintenance of any state highway declared by legislative act expressly to be such highway or which, in accordance with law, has been taken over by the State Highway Department for construction, reconstruction, or maintenance; and this section shall apply to such state highway within as well as without the limits of any municipality and, when within such limits, with or without the consent of the municipal authorities. In such cases and for said purposes the board of supervisors, for and in the name of the county, may fully exercise the right of eminent domain within any municipality, and it shall be the duty of the board so to do on the lawful demand of the State Highway Department. This section shall apply also to said state highways within a separate road district, or districts, adjacent to a municipality.

[With regard to any county which is required to operate on a countywide system of road administration as described in Section 19-2-3, this section shall read as follows:]

The board of supervisors of any county in the state may construct, reconstruct, maintain or contribute to the construction, reconstruction and maintenance of any state highway declared by legislative act expressly to be such highway or which, in accordance with law, has been taken over by the State Highway Department for construction, reconstruction or maintenance; and this section shall apply to such state highway within as well as without the limits of any municipality and, when within such limits, with or without the consent of the municipal authorities. In such cases and for said purposes the board of supervisors, for and in the name of the county, may fully exercise the right of eminent domain within any municipality, and it shall be the duty of the board so to do on the lawful demand of the State Highway Department.

SOURCES: Codes, 1930, § 6360; 1942, § 8324; Laws, 1928, ch. 82; Laws, 1988 Ex Sess, ch. 14, § 37, eff from and after October 1, 1989.

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

Cross References — Transportation commission's power over state highways within municipalities, see § 65-1-75.

Exercise of eminent domain power by board of supervisors, see § 65-7-89.

JUDICIAL DECISIONS

1. In general.

State highway, designated as such by express legislative act, may be built through municipality without its consent. Village of Ridgeland v. Madison County, 154 Miss. 613, 122 So. 753 (1929).

ATTORNEY GENERAL OPINIONS

The Board of Supervisors of a county and the governing authorities of a city within the county may enter into an agreement evidenced by an order on the minutes of both subdivisions authorizing the board of supervisors to assist the municipality by providing road equipment and/or employees and county fuel to repair or replace a bridge within the city limits. Robinson, Nov. 1, 1991, A.G. Op. #91-0779.

Pursuant to Miss. Code Section 65-7-81, county has discretionary authority (subject to approval and specifications of State Highway Department) to maintain state highways within county; further, such maintenance may include installation of culverts and provision of ingress and egress from private property to such state highways to extent necessary for preservation and maintenance of such roads; this authority would, however, not extend beyond public rights of way. Trapp, Apr. 21, 1993, A.G. Op. #93-0242.

A county road department may not furnish and install culvert pipes or otherwise build an entrance ramp to afford adjoining property owners access to state highways. Bishop, Dec. 10, 1999, A.G. Op. #99-0659.

§ 65-7-83. Assumption by counties of concurrent jurisdiction over municipal streets for maintenance purposes.

The board of supervisors of any county may, by consent of or agreement with the proper governing authorities of any municipality within such county, assume concurrent jurisdiction over any street in such municipality for maintenance purposes where such street is a continuation of or intersects a local or county road already under the jurisdiction of such board of supervisors.

Such consent or agreement to the assumption of said concurrent jurisdiction shall be entered into only by the entering of an order on the minutes of both of said boards.

The liability heretofore imposed by law upon any municipality for or on account of the negligent construction or maintenance of any municipal street shall not be changed, diminished, or increased in any way by the provisions of this section.

Said boards of supervisors may, in their discretion, authorize the use of county-owned machinery and equipment in the construction and maintenance of municipal streets, whether or not said streets intersect a local or county road.

SOURCES: Codes, 1942, § 8325; Laws, 1938, ch. 316; Laws, 1962, ch. 259, eff from and after July 1, 1962.

Cross References — Counties joining with municipalities in upkeep of roads, see § 65-7-79.

ATTORNEY GENERAL OPINIONS

The Board of Supervisors of a county and the governing authorities of a city within the county may enter into an agreement evidenced by an order on the minutes of both subdivisions authorizing the board of supervisors to assist the municipality by providing road equipment and/or employees and county fuel to repair or replace a bridge within the city limits. Robinson, Nov. 1, 1991, A.G. Op. #91-0779.

A County may, in its discretion, enter into an agreement spread upon the minutes of both the board of supervisors and the board of aldermen to provide equipment and labor to assist a City in repairing its streets and carry out such agreement. See Section 65-7-85. Edwards, February 16, 1996, A.G. Op. #96-0074.

Sections 65-7-79, 65-7-83, and 65-7-85 permit boards of supervisors to perform road and bridge work within a municipality. Tullos, January 29, 1999, A.G. Op. #99-0025.

§ 65-7-85. Construction and maintenance by county of streets within municipalities.

The several counties of the state, acting by and through the boards of supervisors thereof, are hereby invested, within their discretion, with full authority to expend monies and to do, within any municipalities of the county all acts regarding construction and maintenance of roads and streets that they may do within the county outside the limits of said municipalities.

The authority granted under this section shall be construed as additional and cumulative to all existing authority for the expenditure of county funds within municipalities.

SOURCES: Codes, 1942, § 8325.5; Laws, 1971, ch. 324, §§ 1 and 2, eff from and after passage (approved February 25, 1971).

ATTORNEY GENERAL OPINIONS

The Board of Supervisors of a county and the governing authorities of a city within the county may enter into an agreement evidenced by an order on the minutes of both subdivisions authorizing the board of supervisors to assist the municipality by providing road equipment and/or employees and county fuel to repair or replace a bridge within the city limits. Robinson, Nov. 1, 1991, A.G. Op. #91-0779.

A County may, in its discretion, enter into an agreement spread upon the minutes of both the board of supervisors and the board of aldermen to provide equipment and labor to assist a City in repairing its streets and carry out such agreement. See Section 65-7-85. Edwards, February 16, 1996, A.G. Op. #96-0074.

A county and several cities have the authority to appropriate money to initiate a preliminary engineering and environmental assessment phase of a thoroughfare project without an Interlocal Agreement. McAdams, April 17, 1998, A.G. Op. #98-0195.

Sections 65-7-79, 65-7-83, and 65-7-85 permit boards of supervisors to perform road and bridge work within a municipality. Tullos, January 29, 1999, A.G. Op. #99-0025.

A county may participate with a municipality within the county in a sidewalk construction project along city streets as part of a street project under this section or a public park project under § 55-9-1 or an urban renewal project under § 43-35-1 et. seq., or any other authority using monies from either the general fund or the road and bridge fund. Hollimon, June 4, 2004, A.G. Op. 03-0616.

The amount of road work performed or services furnished by a county within a town may exceed the town's half of road tax, and the town may request the county to perform all of its road work or regardless of the cost. The county may or may not agree to such request. Furthermore, an interlocal agreement is not required where the language of § 65-15-21 and this section authorize the board of supervisors of the county and the governing authorities of the town to enter into an agreement evidenced by an order on the minutes of both subdivisions. Povall, Jan. 28, 2005, A.G. Op. 04-0633.

An interlocal agreement between a city and county is not required for the county to make improvements to a city street. However, the city must consent to or enter an agreement with the county for any proposed work on city streets by the entering of an order on the minutes of both the board of aldermen and the board of supervisors in order for the county to be able to perform any type of work or assistance on a city street or road. Davis, Dec. 27, 2005, A.G. Op. 05-0611.

§ 65-7-87. Certain counties may construct village streets.

The board of supervisors of any county of the state of the second class, having a population of more than fifty thousand according to the 1930 federal census, situated wholly within a levee district, and in which there is situated a city of more than fourteen thousand population, is hereby authorized and empowered, in its discretion, to construct or assist in the construction of any streets of any village or town of less than five hundred population in said county, and to pay for same out of the highway maintenance fund or any other county fund available to said county for highway construction purposes.

SOURCES: Codes, 1942, § 8326; Laws, 1938, Ex. Sess. ch. 58.

§ 65-7-89. Eminent domain, generally.

When the board of supervisors shall be unable to agree with the owners for any land necessary for widening any existing public road or for making changes therein or for laying out new public roads, it is authorized and empowered, in addition to the methods of procedure provided in previous sections of this chapter, to condemn any such land in the name of the county in the manner as is provided by law for the exercise of the right of eminent domain.

SOURCES: Codes, 1906, § 395; Hemingway's 1917, § 3769; 1930, § 6361; 1942, § 8327.

Cross References — Eminent domain generally, see also §§ 11-27-1 et seq.

Damages for taking land, see § 65-7-61.

Review of land takings by circuit court, see § 65-7-67.

Exercise of eminent domain power within municipality by county board of supervisors for road purposes, see § 65-7-81.

Board of supervisors' eminent domain rights to establish highway work stations, see § 65-7-91.

Taking of road building materials from adjoining lands, see § 65-7-101.

Acquisition of rights of way by county supervisors for separate road districts, see § 65-19-69.

Taking by condemnation of privately owned bridges, see § 65-21-13.

ATTORNEY GENERAL OPINIONS

Section 65-7-89 clearly authorizes the Board to institute eminent domain proceedings to gain parcels of land to construct a segment of state highway on the land. However, it may not use the quick take procedure of Section 11-27-1, et seq. Welch, August 9, 1996, A.G. Op. #96-0402.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

§ 65-7-91. Supervisors may establish stations for work.

[With regard to any county which is exempt from the provisions of Section 19-2-3, this section shall read as follows:]

The board of supervisors may purchase or lease land upon which to establish stations for the working of the public roads, and may erect on the land barns, sheds, and other necessary buildings for the working of the public roads; but the board shall not purchase over ten (10) acres of land for any one (1) station. If the board is unable to purchase or lease, upon terms satisfactory to it, a site selected by it for a station, or in case it is unable to agree with any landowner as to the amount of compensation he shall receive for any land so selected, then the board may proceed to obtain not more than two (2) acres of said site by eminent domain, and the right of eminent domain for no more than two (2) acres is hereby conferred upon the boards of supervisors for said purposes.

[With regard to any county which is required to operate on a countywide system of road administration as described in Section 19-2-3, this section shall read as follows:]

(1) The board of supervisors may, for the benefit of the county, purchase or lease real property upon which to establish facilities for the working of the public roads, and may erect on the real property barns, sheds, and other necessary buildings for the working of the public roads. However, only real property belonging to or under the control of the state or some other governmental entity may be leased at no more than fair market value by the county for such purposes and any such lease shall be for a term of not less than twenty-five (25) years.

(2) On or before October 1, 1990, the board shall establish and maintain one (1) central road repair and maintenance facility for the county or may designate an existing facility as the central road repair and maintenance facility for the county. Additional road repair and maintenance facilities may be established if the board, by resolution duly adopted and entered on its minutes, determines the establishment of these facilities is essential for the effective and efficient management of the county road and bridge programs.

(3) From and after October 1, 1990, no road repair and maintenance facilities shall be located on any land not owned by the county or leased by the county in accordance with this section unless these facilities are located on sixteenth section school lands or lands granted in lieu thereof.

(4) If the board is not able to purchase, upon terms satisfactory to it, a site selected by it for a facility, or in case the board is unable to agree with any landowner as to the amount of compensation he is to receive for any real property so selected, then the board may proceed to obtain not more than two (2) acres of the property by eminent domain, and the right of eminent domain for no more than two (2) acres is hereby conferred upon the boards of supervisors for such purposes.

SOURCES: Codes, Hemingway's 1921 Supp. § 7259a; 1930, § 6383; 1942, § 8332; Laws, 1920, ch. 266; Laws, 1988 Ex Sess, ch. 14, § 38; Laws, 2012, ch. 435, § 1, eff from and after July 1, 2012.

Amendment Notes — The 2012 amendment provided for two versions of the section, in the first version, rewrote the paragraph; in the second version, in (1), substituted "purchase" for "buy", inserted "on the real property" preceding "barns, sheds, and other necessary buildings" in the first sentence; deleted "of supervisors" preceding "by resolution duly adopted and entered on its minutes"; in (4), inserted "not more than two (2) acres of" preceding "the property by eminent domain, and the right of eminent domain" inserted "for no more than two (2) acres" thereafter; and made minor stylistic changes throughout.

Cross References — Application of this section to the purchase or lease of property by boards of supervisors for storing and preserving county property, see § 19-7-1.

Authorization to borrow money and issue notes to established work stations pursuant to this section, see § 65-7-92.

ATTORNEY GENERAL OPINIONS

A beat system county board of supervisors may provide itself with offices at the county seat in the courthouse, but not elsewhere. In the individual districts, the board of supervisors may only establish stations for the working of public roads together with necessary buildings therefor. See Section 19-7-1. Greathree, April 26, 1996, A.G. Op. #96-0181.

§ 65-7-92. Authorization to borrow money and issue notes to finance establishment of work stations.

In order to acquire or improve real property for the establishment of road repair and maintenance facilities as authorized to be established and maintained on or before October 1, 1990, in Section 65-7-91, the board of supervisors of any county may borrow money from any source and issue negotiable notes of the county in an amount not to exceed Five Hundred Thousand Dollars ($500,000.00) in the aggregate. The notes shall bear interest at a rate not to exceed the rate of interest authorized to be paid by counties on general obligation bonds and shall be sold in accordance with the provisions of Section 31-19-25. The notes shall mature in approximately equal annual installments over a period not to exceed ten (10) years from the date of issuance thereof. The notes shall be repaid out of any available funds of the county. The notes shall not be considered when computing the limitation of indebtedness under Section 19-9-5.

SOURCES: Laws, 1988 Ex Sess, ch. 14, § 39, eff from and after passage (approved August 16, 1988).

§ 65-7-93. Counties authorized to match federal funds.

The board of supervisors of any county in this state is hereby authorized and empowered to use any available road funds of the county or beat to match any available federal funds for the purpose of building, hard surfacing, or graveling the roads of the respective county or beats of the county. Roads designated as school transportation routes shall be given preference.

The board of supervisors of any county is authorized and empowered to permit the use of county labor, machinery, and equipment, and to appropriate funds from the county's part of the gasoline money for purposes provided in this section.

SOURCES: Codes, 1942, § 8328; Laws, 1940, ch. 188.

Cross References — Allocation of federal aid secondary funds, see § 65-9-29.

§ 65-7-95. Methods of construction and maintenance.

The methods of constructing, reconstructing and maintaining the public roads and bridges in this state, other than those under the actual charge of the State Highway Department, shall be as follows:

Any county may purchase implements and material through its central purchase system; may employ labor; may work, construct, reconstruct and maintain the public roads; may build bridges; and may do any and all things necessary to be done to work, construct, reconstruct and maintain the public roads and to build bridges as herein provided. If, in the opinion of the board of supervisors, any part of the work necessary to be done in working, constructing, reconstructing and maintaining the public roads and in building bridges in such county, or any part or parts thereof, can best be done by awarding contracts therefor, the board of supervisors may advertise for bids and make contracts therefor in accordance with the provisions of Section 31-7-13; and the board of supervisors may, in its discretion, use any funds heretofore or hereafter raised by bond issue or otherwise for working, constructing, reconstructing, maintaining and improving the public roads and for building bridges as herein provided. In no event shall any contract provided above be awarded that shall extend beyond thirty (30) days from the termination and end of the term of office of the members of the boards of supervisors awarding same.

Before any board of supervisors may hire, lease or rent any heavy road machinery or equipment for use in the construction, reconstruction or maintenance of any county road or bridge, such board of supervisors shall first adopt an order adjudicating the necessity for leasing or renting such machinery or equipment, the purposes for which it is to be used, the type of such machinery or equipment and the reasons why the leasing or renting thereof will promote the public interest of the county. Such order shall also direct the clerk of the board of supervisors to advertise for bids for such machinery or equipment, which bids shall be returnable on a day to be fixed by the board of supervisors, in accordance with Section 31-7-13.

All contracts for the leasing or renting of such machinery or equipment shall be awarded to the lowest and best responsible bidder whose bid price or rental consideration is not in excess of the current rates and charges fixed and prescribed by the Nielsen/Data Quest publication, which rates and charges fixed and prescribed by the Nielsen/Data Quest publication shall be on file with the Governor's Office of General Services at that time.

All invoices submitted for the leasing or renting of such machinery or equipment shall identify the equipment by number and name and shall include the number of hours of labor performed and the dates thereof.

SOURCES: Codes, 1930, § 6381; 1942, § 8330; Laws, 1928, ch. 156; Laws, 1932, ch. 196; Laws, 1962, ch. 260, § 1; Laws, 1980, ch. 440, § 25; Laws, 1988 Ex Sess, ch. 14, § 40, eff from and after October 1, 1989.

Editor's Note — Section 7-1-451 provides that wherever the term "Office of General Services" appears in any law the same shall mean the Department of Finance and Administration.

Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

Cross References — Method of awarding contracts by State Transportation Commission, see § 65-1-85.

Bonds on contracts by or on behalf of the State Department of Transportation, see § 65-1-85.

Purchases by road superintendent, see § 65-19-77.

JUDICIAL DECISIONS

1. In general.
2. Jurisdiction over roads.
3. Powers of board of supervisors.
4.-7. [Reserved for future use.]
8. Under former § 65-7-103.

1. In general.

A taxpayer may bring a suit attacking the action of supervisors for failure to comply with statutes regarding the letting of bids for the purchase of county equipment; suits are not restricted to those attacking appropriations of public funds for objects not authorized by law. Canton Farm Equip., Inc. v. Richardson, 501 So. 2d 1098 (Miss. 1987).

This section neither contemplates nor condones the use of public equipment, materials or labor on private projects for the benefit of individual landowners. Saxon v. Harvey, 190 So. 2d 901 (Miss. 1966).

The word "implements" used in this section is broad enough to embrace machines, such as tractors, graders, etc., so that a Board of Supervisors was authorized to make a lease contract for the hire of tractors and road graders. Mississippi Rd. Supply Co. v. Hester, 185 Miss. 839, 188 So. 281, 124 A.L.R. 574 (1939), but see, Canton Farm Equipment, Inc. v. Richardson, 501 So. 2d 1098 (Miss. 1987).

County was not liable for damage to barges rented to county to support bridge on theory that the county was a bailee of the barges and was liable for breach of its contract of bailment, where rental contract was void because it extended more than thirty days beyond the termination and end of the term of office of the members of the board of supervisors awarding it. Continental Ins. Co. v. Harrison County, 153 F.2d 671 (5th Cir. 1946).

Discretion vested in supervisors respecting roads should be exercised within sound independent judgment of board uncontrolled by electors. Board of Supvrs. v. Self, 156 Miss. 273, 125 So. 828 (1930).

2. Jurisdiction over roads.

A survey by state and aid in construction of a road would not divest the county and invest the state with jurisdiction of the road since that must be done by affirmative act of the Legislature. Stigall v. Sharkey County, 207 Miss. 188, 42 So. 2d 116 (1949).

County has jurisdiction over road so as to make it liable for damage resulting from an overflow caused by improper construction of road where county followed method prescirbed by law, Code 1942, § 8314, notwithstanding state highway department and WPA workers did part of the actual construction of the road, with permission of county supervisors. Stigall v. Sharkey County, 207 Miss. 188, 42 So. 2d 116 (1949).

3. Powers of board of supervisors.

Actions of a district supervisor in renting equipment on verbal instructions on a day-to-day, as needed basis, over a period of years, and in accepting invoice that was no more than a capitulation sheet giving a summary for that particular month violated § 65-7-95. Cumbest v. State, 456 So. 2d 209 (Miss. 1984).

The supervisors had the power to pay for the hire of drag lines, trucks, etc., as shown by the accounts presented by the contractor to the supervisors, although the clerk was mistaken in his request that they be broken down rather than made out for the purchase price of gravel placed on the roads. Craig v. Wheat, 212 Miss. 258, 54 So. 2d 383 (1951).

It is permissible under Code 1942, § 2939, for a county or a supervisors's district, which owns road machinery and equipment, to have the same repaired by employing labor for that purpose, and the law does not require that the employment of labor for repair work on road machinery shall be on competitive bids, following the usual advertisement of an intention to have such property repaired for use, or forbid a contract with a repairman until the next meeting of the board. Shook v. Carroll County, 210 Miss. 537, 49 So. 2d 897 (1951).

If it should be held that the county board of supervisors has the right to appoint its members as road commissioners for their separate districts, the exercise of such right could be evidenced only by an order on the minutes of the board. Simpson County v. Panther Oil & Grease Co., 185 Miss. 506, 188 So. 566 (1939).

Where county board of supervisors employed no road commissioner but had a gentlemen's agreement that work in each district should be done under supervision of board member elected from such district, who without previous order of board would employ labor and would submit pay rolls which would be allowed at subsequent meeting of board, person so employed by member to work on roads in district could not recover from county for such work, since such person had no legal contract with county. Lee County v. James, 178 Miss. 554, 174 So. 76 (1937).

Boards of supervisors can bind counties or districts therein only when acting within their authority and in mode and manner by which authority is to be exercised under statutes, and their contracts and every other substantial action taken by them must be evidenced by entries on their minutes and can be evidenced in no other way. Lee County v. James, 178 Miss. 554, 174 So. 76 (1937).

Declaration against member of board of supervisors and surety alleging that defendant under whose supervision and control the road work of the district had been placed left bridge which was being repaired in unsafe condition at night without warning signals, causing damage to plaintiff when he drove over bridge in automobile, held sufficient. State ex rel. Russell v. McRae, 169 Miss. 169, 152 So. 826 (1934).

4.-7. [Reserved for future use.]

8. Under former § 65-7-103.

It is permissible under Code 1942, § 2939, for a county or a supervisor's district, which owns road machinery and equipment, to have the same repaired by employing labor for that purpose, and the law does not require that the employment of labor for repair work on road machinery shall be on competitive bids, following the usual advertisement of an intention to have such property repaired for use, or forbid a contract with a repairman until the next meeting of the board. Shook v. Carroll County, 210 Miss. 537, 49 So. 2d 897 (1951).

County was not liable for damage to barges rented to county to support bridge on theory that the county was a bailee of the barges and was liable for breach of its contract of bailment, where rental contract was void because there was no compliance with the statute requiring advertisements for bids, there being no emergency existing which would authorize the county to enter into such a contract without advertising for bids even had the amount not exceeded $500. Continental Ins. Co. v. Harrison County, 153 F.2d 671 (5th Cir. 1946).

Where competitive bid must be had, the order of county board of supervisors allowing claim must recite and adjudge the jurisdictional facts in that respect, but where the amounts in the order show that no competitive bids were required, the order need not go further and negative a fact sufficiently negatived by such amounts. Clayton v. Paden, 198 Miss. 163, 21 So. 2d 823 (1945).

Order of county board of supervisors allowing three claims each for less than $250 although their total exceeded that amount, and referring to statute under which it was made, was sufficient on its face to constitute a valid and binding judgment, the payment of which the holders were entitled to compel by mandamus, although the order did not recite jurisdictional facts reciting competitive bids. Clayton v. Paden, 198 Miss. 163, 21 So. 2d 823 (1945).

ATTORNEY GENERAL OPINIONS

Statutory provision does not apply to contracts made by county of Madison and cities of Madison and Ridgeland pursuant to Senate Bill No. 3036; this local and private act provides alternative method to general law for governing authorities of county of Madison and cities of Madison and Ridgeland to award contracts to construct roadway described in act and gives these governing authorities all of powers necessary to construct road. Montgomery, April 4, 1990, A.G. Op. #90-0238.

With the sole exception of supervisors and contracts falling within the provisions of § 19-11-27, the prohibitions of §§ 19-11-27, 65-7-95 and 23-15-881 apply to supervisors who are unopposed in the primaries and general elections. Trapp, May 7, 1999, A.G. Op. #99-0220.

This section does not prohibit a board of supervisors from entering into an agreement for a loan under the local governments capital improvements revolving loan program provided by §§ 57-1-301 et seq. at any time during the last year of their terms of office. Lamar, July 30, 1999, A.G. Op. #99-0368.

Miss. Code Ann. § 65-7-95 prohibits a County Board of Supervisors from entering into a road construction contract which extends beyond thirty (30) days from the end of the term of office of the current Board members, however a road construction project carried out pursuant to local and private legislation would not be governed by Miss. Code Ann. § 65-7-95 and could extend as long as necessary. Nowak, February 16, 2007, A.G. Op. #07-00053, 2007 Miss. AG LEXIS 26.

Pursuant to Miss. Code Ann. § 65-7-95, a municipality having a population of 2,000 or more may purchase and operate radar on its public streets. The most authentic proof of population is the census, but the municipality may use another official count. Any speeding conviction resulting from radar evidence would have to be based on both proof of the offense and proof of the town's population. Adams, June 13, 1974, [no A.G. opinion number in original] 1974 Miss. AG LEXIS 8.

RESEARCH REFERENCES

Am Jur. 39 Am. Jur. 2d, Highways, Streets, and Bridges §§ 103 et seq.

26 Am. Jur. Trials 241, Actions Against Road Contractors For Inadequate Warning of Construction Hazards.

21 Am. Jur. Proof of Facts 2d 251, Public Authority's Failure to Repair Pothole in Surface of Highway or Street.

CJS. 40 C.J.S., Highways §§ 209, 210 et seq.

§ 65-7-97. Installment buying prohibited.

The boards of supervisors are hereby prohibited from purchasing any machinery or equipment under a contract requiring installment or deferred payments. However, this section shall not be construed to prohibit boards of supervisors from making purchases which shall be paid for not later than the next regular meeting of said board.

SOURCES: Codes, 1942, § 8331; Laws, 1932, ch. 205.

Cross References — Purchase of road equipment by the board of supervisors, see § 19-13-17.

§ 65-7-99. Acquisition of gravel beds and sale of excess supply.

[With regard to any county which is exempt from the provisions of Section 19-2-3, this section shall read as follows:]

Any county, or road district organized and operating under any road law of the state, is authorized and empowered to purchase and hold, or to lease, any land containing gravel, sand, clay, chert, or other road building material to be used in the construction and maintenance of roads, and to sell off any of such road building material in excess of its own needs. Such land or lease is to be held in the name of the county when purchased or leased by the county, and to be held in the name of the county for the use of the road district when the purchase or lease is made for the district, but no purchase shall be made by a district except with the consent of the board of supervisors. Such land or lease is to be paid for out of the proper county fund when purchased or leased by the county, and to be paid for out of any funds belonging to the road district when the purchase or lease is for the district, and any funds arising from the sale of material is to be turned back into the fund from which the purchase price was made. And the necessary roads or other means to reach and use the property aforesaid may be constructed and maintained by the county or road district.

[With regard to any county which is required to operate on a countywide system of road administration as described in Section 19-2-3, this section shall read as follows:]

Any county is authorized and empowered to purchase and hold, or to lease, any land containing gravel, sand, clay, chert or other road building material to be used in the construction and maintenance of roads, and to sell off any of such road building material in excess of its own needs. Such land or lease is to be held in the name of the county. Such land or lease is to be paid for out of the proper county fund, and any funds arising from the sale of material are to be turned back into the fund from which the purchase price was made. The necessary roads or other means to reach and use the property aforesaid may be constructed and maintained by the county.

SOURCES: Codes, Hemingway's 1917, § 7132; 1930, § 6384; 1942, § 8333; Laws, 1914, ch. 181; Laws, 1988 Ex Sess, ch. 14, § 41, eff from and after October 1, 1989.

Cross References — Appointment and duties of road commissioners, see §§ 65-19-27 et seq.

ATTORNEY GENERAL OPINIONS

In selling off any excess road building materials the board of supervisors should follow the dictates of § 19-7-5 which provide that the county may sell and dispose of personal property belonging to the county at public sale after first posting notices at three public places in the county, one of which must be at the courthouse. Munn, June 19, 1998, A.G. Op. #98-0312.

§ 65-7-101. Timber and gravel for bridges and causeways.

[With regard to any county which is exempt from the provisions of Section 19-2-3, this section shall read as follows:]

The overseer, road commissioner, or contractor of the road on which any bridge or roadway is to be erected or repaired shall have authority to take from the land, stream, bayous, or banks lying within a reasonable distance of the bridge or causeway or roadway the timber, gravel, dirt, and other road material necessary for such bridge, causeway, or roadway after the board of supervisors has assessed the value thereof and paid or tendered to the owner of the timber, gravel, dirt, or other road material the value thereof, by a warrant on the county treasurer. If the proprietor be dissatisfied with such valuation, he may appeal to the circuit court; but the valuation of the board shall be prima facie evidence of the value of the timber, gravel, or dirt. But no shade trees or ornamental trees shall be taken to be used on roads.

[With regard to any county which is required to operate on a countywide system of road administration as described in Section 19-2-3, this section shall read as follows:]

Whenever any bridge or roadway is to be erected or repaired, the county road manager shall have authority to take from the land, stream, bayous or banks lying within a reasonable distance of the bridge or causeway or roadway the timber, gravel, dirt, and other road material necessary for such bridge, causeway or roadway after the board of supervisors has assessed the value thereof and paid or tendered to the owner of the timber, gravel, dirt or other road material the value thereof, by a warrant on the county treasurer. If the proprietor be dissatisfied with such valuation, he may appeal to the circuit court; but the valuation of the board shall be prima facie evidence of the value of the timber, gravel or dirt. But no shade trees or ornamental trees shall be taken to be used on roads.

SOURCES: Codes, Hutchinson's 1848, ch. 10, art. 7 (37); 1857, ch. 15, art. 39; 1871, § 2377; 1880, § 871; 1892, § 3938; 1906, § 4451; Hemingway's 1917, § 7131; 1930, § 6385; 1942, § 8334; Laws, 1916, ch. 178; Laws, 1988 Ex Sess, ch. 14, § 42, eff from and after October 1, 1989.

Cross References — Prohibition against board of supervisors making contracts in vacation or during a recess, see § 19-13-11.

Damages for taking land for highway purposes, see § 65-7-61.

Review of land taking proceedings by circuit court, see § 65-7-67.

Letting of contracts under county highway aid law, see § 65-11-51.

RESEARCH REFERENCES

Am Jur. 39 Am. Jur. 2d, Highways, Streets, and Bridges §§ 111, 115 et seq.

64 Am. Jur. 2d, Public Works and Contracts §§ 1 et seq.

9A Am. Jur. Legal Forms 2d, Highways, Streets, and Bridges § 134:145. (lease of road maintenance equipment with option to purchase).

§ 65-7-103. Repealed.

Repealed by Laws, 1980, ch. 440, § 28, eff from and after January 1, 1981. [Codes, 1930, § 6386; 1942, § 8335; Laws, 1928, ch. 157; 1950, ch. 249]

Editor's Note — Former § 65-7-103 provided for a method in awarding contracts.

§ 65-7-105. Plans and specifications.

[With regard to any county which is exempt from the provisions of Section 19-2-3, this section shall read as follows:]

Before any road, or any part thereof, or any bridge shall be let out to contract where the amount of the contract will exceed One Thousand Five Hundred Dollars ($1,500.00), the road commissioner, or engineer if there be one, shall inspect the road or part thereof or the bridge so proposed to be contracted, and shall carefully note the character and amount of work needed on same and all else necessary to make same a good and acceptable highway. The road commissioner, or engineer if there be one, shall then prepare detailed plans and specifications for the construction or reconstruction or working of same by contract, which shall be presented to the board of supervisors for approval. The plans and specifications shall be filed with the clerk of the board of supervisors for the inspection of prospective bidders, prior to the first public letting under the terms hereof at a regular meeting to be named; and at any time prior to the acceptance of bids, the board may alter the plans and specifications submitted, and thereupon readvertise.

[With regard to any county which is required to operate on a countywide system of road administration as described in Section 19-2-3, this section shall read as follows:]

Before any road, or any part thereof, or any bridge shall be let out to contract where the amount of the contract will exceed Twenty-five Thousand Dollars ($25,000.00), the county road manager, or engineer if there be one, shall inspect the road or part thereof or the bridge so proposed to be contracted, and shall carefully note the character and amount of work needed on same and all else necessary to make same a good and acceptable highway. The county road manager, or engineer if there be one, shall then prepare detailed plans and specifications for the construction or reconstruction or working of same by contract, which shall be presented to the board of supervisors for approval. The plans and specifications shall be filed with the clerk of the board of supervisors for the inspection of prospective bidders, prior to the first public letting under the terms hereof at a regular meeting to be named; and at any time prior to the acceptance of bids, the board may alter the plans and specifications submitted, and thereupon readvertise.

SOURCES: Codes, 1906, § 4468; Hemingway's 1917, § 7142; 1930, § 6387; 1942, § 8336; Laws, 1986, ch. 307, § 1; Laws, 1988 Ex Sess, ch. 14, § 43, eff from and after October 1, 1989.

Cross References — Duties of road commissioners generally, see § 65-19-29.

RESEARCH REFERENCES

ALR. Authority of state, municipality, or other governmental entity to accept late bids for public works contracts. 49 A.L.R.5th 747.

§ 65-7-107. Contracts in vacation.

Where any contract is made, as provided herein, by any member of the board of supervisors in vacation without competitive bids, and the amount of such contract exceeds the sum of One Hundred Dollars ($100.00), it shall be the duty of the member of the board of supervisors making such contract to obtain bids from at least two (2) bidders before making such contract, and to file a statement of the amount of each such bid with the board at its next meeting.

SOURCES: Codes, 1930, § 6388; 1942, § 8337; Laws, 1928, ch. 157.

JUDICIAL DECISIONS

1. In general.

County was not liable for damage to barges rented to county to support bridge on theory that the county was a bailee of such barges and was liable for its breach of contract, where rental contract was void because there was no compliance with the statute requiring advertisements for bids, there being no emergency existing which would authorize the county to enter into such a contract without advertising for bids even had the amount not exceeded $500. Continental Ins. Co. v. Harrison County, 153 F.2d 671 (5th Cir. 1946).

Power to make purchases is not conferred by this section, and where purchases were not made in an emergency, a county was not liable. Stone v. Commercial Credit Corp., 8 So. 2d 456 (Miss. 1942).

This section does not confer any authority on a member of a board of supervisors to make contracts for the construction and maintenance of public roads, notwithstanding that it should appear that such member was acting as road commissioner. Simpson County v. Panther Oil & Grease Co., 185 Miss. 506, 188 So. 566 (1939).

§ 65-7-109. Roads built with oyster shells.

All road authorities and contractors in counties, parts of counties, and municipalities in this state who construct, build, or repair public roads and streets with oyster shells shall, within ten days after the foundation is laid for such road, put a surface of crushed shells or other surfacing equal thereto for the purpose of making such roads smooth; and each half mile in rural districts and each block in cities shall be surfaced within said time after the foundation of such road shall be laid. All surface repair work shall be done with crushed shell, or material equal thereto, where the foundation is laid with such uncrushed oyster shells, so that said road shall be made smooth and traversable without injury to animal or vehicle. Where foundation is repaired with uncrushed shells, the surfacing shall be done as soon as reasonably possible, not to exceed ten days after such foundation is laid.

SOURCES: Codes, Hemingway's 1917, § 7257; 1930, § 6409; 1942, § 8338; Laws, 1916, ch. 176.

Cross References — Penalty for violating this section, see § 65-7-111.

§ 65-7-111. Penalty for violating provision for shell surfacing.

A failure to comply with the terms of Section 65-7-109 shall constitute a misdemeanor, and any person convicted in a court of competent jurisdiction shall be fined not to exceed fifty dollars ($50.00) or be imprisoned in jail not to exceed ten days, or both.

SOURCES: Codes, Hemingway's 1917, § 7258; 1930, § 6410; 1942, § 8339; Laws, 1916, ch. 176.

Cross References — Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

§ 65-7-113. Working roads with convicts.

The boards of supervisors may provide for the working of public roads with the convicts sentenced to the county jails, or committed for failure to pay the fine and costs imposed upon them; and if they do so, they may make the necessary contracts for that purpose, or employ suitable persons to have charge of and superintend the labor of the convicts. The board of supervisors may require the contractor of any road to take and work the convicts sentenced to the county jail, or committed to same to pay fine and cost imposed upon them, upon such terms and conditions as the said board and contractor may agree upon.

SOURCES: Codes, 1892, § 3932; 1906, §§ 4444, 4471; Hemingway's 1917, §§ 7124, 7146; 1930, § 6412; 1942, § 8342.

Cross References — Constitutional provision for the working of public roads by prisoners, see Miss. Const. Art. 4, § 85.

Duties of board of supervisors in regard to working out of sentences by convicts, see § 47-1-3.

Authority to work convicts on public roads or other public works, see § 47-1-9.

Working of certain roads by convicts on penitentiary farms, see § 47-5-131.

§ 65-7-115. Supervisors to have general supervision; board may provide for transportation needs of its members.

[With regard to any county which is exempt from the provisions of Section 19-2-3, this section shall read as follows:]

The supervisor of each district in each county is to have and is required to exercise general supervision over the public highways of his district.

[With regard to any county which is required to operate on a countywide system of road administration as described in Section 19-2-3, this section shall read as follows:]

(1) The board of supervisors in each county is to have and is required to exercise jurisdiction over the public highways of the county.

(2) The board of supervisors may by order duly adopted and entered on its minutes, provide for such transportation of individual members of the board as is necessary and essential in the performance of their official duties.

SOURCES: Codes, 1906, § 4467; Hemingway's 1917, § 7141; 1930, § 6413; 1942, § 8343; Laws, 1988 Ex Sess, ch. 14, § 44, eff from and after October 1, 1989.

Cross References — Constitutional provision for division of county into districts, see Miss. Const. Art. 6, § 170.

Jurisdiction and powers of boards of supervisors generally, see § 19-3-41.

Control over state highways by State Transportation Commission, see § 65-1-47.

Abandonment by board of supervisors of any section of the county road system, see § 65-7-121.

JUDICIAL DECISIONS

1. In general.

It is permissible under Code 1942, § 2939, for a county or a supervisor's district, which owns road machinery and equipment, to have the same repaired by employing labor for that purpose, and the law does not require that the employment of labor for repair work on road machinery shall be on competitive bids, following the usual advertisement of an intention to have such property repaired for use, or forbid a contract with a repairman until the next meeting of the board. Shook v. Carroll County, 210 Miss. 537, 49 So. 2d 897 (1951).

Where roads divided into links and let to lowest bidders, supervisors were entitled to additional compensation for inspection of roads. State v. Wilson, 96 Miss. 788, 51 So. 715 (1910).

ATTORNEY GENERAL OPINIONS

If the use of county vehicles is not limited to the supervisors road duties, the purchase should be made out of the general fund. See Section 19-2-3. Creekmore, April 26, 1996, A.G. Op. #96-0200.

§ 65-7-117. Members of board to inspect roads; preparation of four-year construction and major maintenance plan.

[With regard to any county which is exempt from the provisions of Section 19-2-3, this section shall read as follows:]

Each member of the board of supervisors shall inspect every road, bridge and ferry in each district at least annually, at times to be fixed by the board, and shall file with the clerk of the board a report, under oath, of the condition of the several roads, bridges and ferries inspected by him, with such recommendations as are needful, which reports shall be presented to the board of supervisors and kept on file for three (3) years.

[With regard to any county which is required to operate on a countywide system of road administration as described in Section 19-2-3, this section shall read as follows:]

Each member of the board of supervisors shall inspect every road and bridge in the county under the jurisdiction of the county not later than December 31, 1989, and, thereafter, not less than once each fiscal year. Each member shall file with the clerk of the board a report, under oath, of the condition of the roads and bridges inspected by him with recommendations by him for a four-year plan for construction and major maintenance of such roads and bridges. Based upon such reports, the board of supervisors shall, on or before February 1, 1990, and on or before February 1 of each year thereafter, adopt and spread upon its minutes a four-year plan for the construction and maintenance of county roads and bridges. The plan may be amended at any time by a vote of the majority of the members of the board of supervisors.

SOURCES: Codes, 1892, § 3935; 1906, § 4447; Hemingway's 1917, § 7127; 1930, § 6414; 1942, § 8344; Laws, 1986, ch. 307, § 2; Laws, 1988 Ex Sess, ch. 14, § 45, eff from and after October 1, 1989.

Cross References — Provision that public works shall not be paid for until inspected by board of supervisors, see § 19-13-15.

JUDICIAL DECISIONS

1. In general.

Summary judgment was properly awarded to a county board of supervisors in plaintiffs' action to recover damages for injuries sustained after their vehicle collided with a mailbox on the shoulder of a road because although the board admittedly failed to personally inspect the road where the accident occurred, the county road management department, as an agent for the board, conducted an inspection of the road and, thus, satisfied the statutory requirements. Bryant v. Bd. of Supervisors, 10 So. 3d 919 (Miss. Ct. App. 2008).

County was not immune from its duty to properly maintain, inspect, and perform such other duties as may be required by law, with respect to the bridge; pursuant to Miss. Code Ann. § 65-7-117 and Miss. Code Ann. § 65-9-25, the county was under the statutory duty to properly maintain and to inspect State Aid roads such as the bridge where the accident occurred. Ladner v. Stone County, 938 So. 2d 270 (Miss. Ct. App. 2006), writ of certiorari denied by 937 So. 2d 450, 2006 Miss. LEXIS 542 (Miss. 2006).

In an action against a county supervisor for personal injuries suffered by plaintiffs when they crashed into a collapsed bridge located in the supervisor's district, the court held that the supervisor's negligence was in his failure to inspect the bridge and make his recommendation as to needed repairs to the whole board, and his liability for this omission was indictment and conviction under § 65-7-119; duty of repairing the bridge was within the discretionary functions of the whole board of supervisors, and the individual supervisor's failure to inspect, though ministerial, was not the proximate cause of the accident for which he would be individually liable. Berry v. Warren, 304 So. 2d 284 (Miss. 1974).

Supervisor was not liable for injuries caused by defective bridge in his district. Lee v. Styles, 95 Miss. 623, 49 So. 259 (1909).

ATTORNEY GENERAL OPINIONS

Each board member is required to inspect every road, bridge and ferry in whole county and not just those in District from which he was elected. Barrett, March 8, 1990, A.G. Op. #90-0159.

A board of supervisors may, in its discretion, include municipal streets and bridges in its four year plan required by the statute. Yancey, April 9, 1998, A.G. Op. #98-0185.

A county may not prohibit the traffic on the private road from utilizing the public road. But, the county may exercise reasonable regulation and control through the use of design standards, safety regulations, and current traffic laws when determining how the private road joins the end of the county road. Kilpatrick, July 16, 2004, A.G. Op. 04-0306.

Which county roads require major maintenance is established in a four-year plan built on annual road inspections by the board of supervisors, and such policy is to be implemented by the county road manager. The board of supervisors may change or modify any action of the road manager by an official order approved by a majority vote of the board, reflected in the minutes, but no individual supervisor has the authority to advise or direct the road manager to perform major maintenance. White, March 23, 2007, A.G. Op. #07-00118, 2007 Miss. AG LEXIS 122.

§ 65-7-119. Liability for neglect of duty.

The circuit judge shall at each term of the court especially charge the grand jury to inquire into the condition of the roads of any county. Any contractor or overseer or supervisor who neglects his duty shall be guilty of a misdemeanor and be liable to indictment and, upon conviction, shall be fined not more than One Hundred Dollars ($100.00).

SOURCES: Codes, 1906, § 4473; Hemingway's 1917, § 7148; 1930, § 6415; 1942, § 8345.

Cross References — Charge of grand jury generally, see § 13-5-47.

Abandonment by board of supervisors of any section of the county road system, see § 65-7-121.

Other penalties for overseers' neglect of duty, see §§ 97-15-47, 97-15-49.

Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

JUDICIAL DECISIONS

1. Liability of county.
2. Liability of contractor.

1. Liability of county.

Counties are not liable for defective condition of roads. Wade v. Gray, 104 Miss. 151, 61 So. 168 (1913).

2. Liability of contractor.

Independent contractor engaged to work county roads were held personally liable for injury to horse caused by defective condition of road. Wade v. Gray, 104 Miss. 151, 61 So. 168 (1913).

An indictment against a road contractor is demurrable if it fails to charge that the law for working roads by contract had been put in operation in the county. State v. Burkett, 83 Miss. 301, 35 So. 689 (1904).

The courts do not take judicial notice of the orders of the board of supervisors placing such law in force in their respective counties. State v. Burkett, 83 Miss. 301, 35 So. 689 (1904).

An indictment against a road contractor for neglect of duty in suffering a highway to be out of repair, under Laws 1900 ch 119, § 10, making the same a misdemeanor, is demurrable if it fails to charge: (1) That the board of supervisor had elected to work the public highways by contract; (2) or had divided them into convenient links; (3) or had let the contract for working for not less than two nor more than four years, by sealed bid or public outcry, to the lowest bidder who would give bond in double the amount of his bid for the performance of his contract; (4) or that defendant was a road contractor and had become such under said law; (5) or the facts of the case constituting the neglect of duty. McElmore v. State, 81 Miss. 422, 33 So. 225 (1903).

A road contractor is not punishable for negligence in suffering a highway to be out of repair before he has had time or opportunity to put it in good condition. Cain v. State, 81 Miss. 420, 33 So. 222 (1903).

RESEARCH REFERENCES

ALR. Personal injury liability of civil engineer for negligence in highway or bridge construction or maintenance. 43 A.L.R.4th 911.

§ 65-7-121. Abandonment by board of supervisors of any section of county road system; hearing; notice; posting of signs; liability after abandonment; notice to railroad; easements.

(1) The board of supervisors of any county may, upon its own motion or upon the petition of any interested resident of the county, by resolution spread upon its minutes, declare any section of the county road system abandoned upon its finding that one or more of the following circumstances are applicable to the section in question:

(a) The section does not provide primary access to occupied properties;

(b) Traffic on the section has for a period of at least ten (10) consecutive years been intermittent and of such low volume that no substantial public purpose is being served thereby;

(c) The board of supervisors has, for a period of at least the previous five (5) consecutive years, not maintained such section as part of the county road system; or

(d) For any reason, the public interest or convenience does not require the section to remain open to the public or that it is in the public interest or convenience to close, vacate and abandon the section.

(2) Except as provided in subsection (3) of this section, before any section of the county road system may be abandoned as provided in this section, the board of supervisors shall hold a public hearing on the question of such abandonment and shall publish notice of such hearing at least two (2) times, not less than two (2) weeks prior to the date of the hearing, in a newspaper having general circulation in the county.

(3) [Repealed].

(4) The resolution of the board of supervisors abandoning any section of the county road system will abrogate the easement theretofore owned, held, claimed or used by or on behalf of the general public but will not affect any private easements.

(5) Upon the abandonment of any section of the county road system, the board of supervisors shall post clearly visible signs at any intersection of the abandoned roadway with the county road system indicating that the abandoned section is no longer part of the county road system and is not maintained by the county. Once the required signs are posted, the county shall not be liable for the death of or injury to a vehicle owner, operator or passenger, or for damage to a vehicle or its contents, resulting from a dangerous condition on the abandoned section. If there exists a public railroad grade crossing or railroad bridge on the section of county road so abandoned, the county shall furnish the railroad or individual owning such railroad trackage with a copy of the resolution authorizing the abandonment and thereupon, the railroad company or individual owning such trackage may barricade the crossing or remove the bridge.

(6) From and after July 1, 2000, any proceedings under this section shall be documented in the official record of the county road system in accordance with the requirements of Section 65-7-4.

SOURCES: Laws, 1986, ch. 313; Laws, 1992, ch. 480, § 1; Laws, 1998, ch. 539, § 3, eff from and after July 1, 1998.

Editor's Note — Subsection (3) was repealed by its own terms, effective July 1, 1993.

JUDICIAL DECISIONS

1. In general.

The lack of compliance with the statute did not compel a finding that a road still maintained its public character where the public nature of the road ended long before the effective date of the statute. Ann May Enters., Inc. v. Caples, 724 So. 2d 1127 (Ct. App. 1998).

ATTORNEY GENERAL OPINIONS

If board of supervisors determines that roads in question were effectively abandoned before enactment of Section 65-7-121 in 1986, it may enter order to that effect; if there is any doubt of abandonment prior to 1986, then procedure set forth in statute must be utilized. Trapp, March 23, 1994, A.G. Op. #94-0169.

This section did not apply to the abandonment or reconveyance of property to the successor in interest to the person who conveyed the property originally to the county for the construction of a public road; instead, the county was required to use the procedure outlined in § 19-7-3 to dispose of the property. Shepard, March 5, 1999, A.G. Op. #99-0092.

The statute allows a county to abandon a section of road at the point where the county road intersects with a state highway, thereby effectively creating a dead end road, if it is in the public interest or convenience to do so. Shaw, Dec. 28, 1999, A.G. Op. #99-0677.

If a donated right-of-way easement has been entered in the official county road register and map, requirements for abandonment set forth in § 65-7-121 (1)(a)-(d) apply; if the easement has not been entered in the county road register, the board of supervisors may find on the minutes that the easement will not be used for road purposes and the board may quitclaim the easement to the owner. Chamberlin, Sept. 6, 2002, A.G. Op. #02-0459.

County board of supervisors does not have authority under this section to close a municipal street; further, no authority can be found which empowers a county to abandon a municipal street or to compel a municipality to close a dedicated street within the municipal corporate limits. Palmer, Dec. 20, 2002, A.G. Op. #02-0673.

If a board of supervisors finds that a deed constituted a conveyance of only an easement for road purposes, and that such easement will not be used for county purposes, then the board may quitclaim the easement to the owner/grantor. Creekmore, Sept. 24, 2004, A.G. Op. 04-0467.

Board of supervisors has the authority to abandon easements which provide the only means of access to otherwise landlocked property unless a specified statutory limitation applies, which is a factual determination for the board to make.. Powell, Mar. 18, 2005, A.G. Op. 05-0137.

If a privately constructed road is on the official county map and road system register, it can be abandoned when a county board of supervisors takes action pursuant to the requirements of Section 65-7-121. Powell, Apr. 1, 2005, A.G. Op. 05-0115.

Section 65-7-121 is not applicable to the situation in which a county ceases to provide discretionary street maintenance within a municipality. Hatcher, Apr. 15, 2005, A.G. Op. 05-0161.

A board of supervisors may not lease property from a railroad company for improving, upgrading or building of a proposed road, and such road may only be improved, upgraded or built if the county secures a perpetual easement for road purposes from the company without limitation on the number of years. Carroll, July 1, 2005, A.G. Op. 05-0240.

Where a road has not been maintained for more than five years prior to July 2000, nor adopted as part of the county road system in accordance with Section 65-7-4, nor added to the county road system by the board of supervisors or maintained by the board in the six years following the establishment of the county road system, then such road was never a part of the county road system, and such road is not required to be abandoned in accordance with the procedures in Section 65-7-121 (2) in order that it not be considered a public road. Hathorn, Nov. 27, 2006, A.G. Op. 06-0576.

§ 65-7-123. Requirement on certain county roads for temporary center line safety stripes while undergoing reconstruction or maintenance.

Any segment of a county-maintained, hard-surfaced highway normally marked by center line safety stripes which is overlayed with hot mix asphalt while undergoing reconstruction or maintenance shall be marked with temporary center line safety stripes if permanent center line safety stripes will not be installed before such segment is opened for public use.

SOURCES: Laws, 1994, ch. 367, § 1, eff from and after July 1, 1994.

IDENTIFICATION AND DESIGNATION OF STREETS, ROADS, HIGHWAYS AND DWELLING PLACES

Sec.
65-7-141. Purpose.
65-7-143. Numbering and naming unidentified roads, highways or streets.
65-7-145. Dwelling houses; assignment of street and number address.
65-7-147. Repealed.

§ 65-7-141. Purpose.

It is the purpose of Sections 65-7-141 through 65-7-147 to provide that the State Highway Department and local governing authorities shall identify all streets, roads, highways and dwelling places not otherwise designated by name or number and to assign to said streets, roads, highways and dwelling places a number identification whereby such streets, roads, highways and dwelling places may be systematically identified and located without difficulty or ambiguity.

SOURCES: Laws, 1977, ch. 441, § 1; Laws, 1986, ch. 508, § 1, eff from and after July 1, 1986.

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

Section 65-7-147 referred to in this section was repealed by Laws of 1986, ch. 508, § 4 eff from and after July 1, 1986.

ATTORNEY GENERAL OPINIONS

The governing authorities of a municipality may name roads, highways, streets, and publicly owned parking lots and driveways; however, there is no authority for such governing authorities to name privately owned parking lots and driveways in the municipality. Edmonson, September 11, 1998, A.G. Op. #98-0540.

§ 65-7-143. Numbering and naming unidentified roads, highways or streets.

(1) All streets and roads of any municipality or county, and all other roads, highways or streets of this state that are not otherwise officially named or numbered shall be assigned a number and said roads, highways or streets shall henceforth be, for official purposes, known and referenced by an assigned number. In addition, the State Aid Division of the State Highway Department is further authorized to name or identify such roads, highways or streets by the names of individuals, subject to the approval of the appropriate governing authorities.

(2) The designation appearing in the Highway Department Road Inventory developed by the State Highway Department for each county and municipality shall constitute the official designation for counties and municipalities from and after July 1, 1988, unless prior to said date the board of supervisors of a county or the governing authority of a municipality adopts an ordinance duly spread upon its minutes adopting an official map or otherwise officially designates or names the public streets, roads and highways within its jurisdiction.

(3) Nothing herein shall be construed to require the marking of roads or the provision of road or street name signs; however, the boards of supervisors of the several counties and the governing authorities of any municipality may accept donations of money, materials, labor or other assistance to provide for the marking of streets, roads and highways.

(4) The provisions of this section shall not be construed to prohibit local governing authorities from naming, renaming or accepting named streets or roads as public ways in their discretion; however, any such action constituting an addition or change to the official county or municipal map shall be by ordinance duly adopted and spread upon the minutes of the governing authority, a certified copy of which shall be transmitted to the State Highway Department.

(5) The boards of supervisors are hereby authorized to expend excess funds as provided by Section 19-5-313 for paying the costs of identifying roads, highways and streets.

SOURCES: Laws, 1977, ch. 441, § 2; Laws, 1986, ch. 508, § 2; Laws, 1987, ch. 313; Laws, 1990, ch. 469, § 2, eff from and after July 1, 1990.

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

Cross References — Use of excess emergency telephone service charges to fund expenses of identifying roads as provided in this section, see § 19-5-313.

State aid roads in counties, see § 65-9-1 et seq.

ATTORNEY GENERAL OPINIONS

Statute pertaining to numbering and naming of unidentified roads does not empower cities to unilaterally effect official changes in the name designation of federal highways which have already been name designated by the legislature, although there is no prohibition to city providing unofficial secondary designation of such federal highway or naming an unnamed federal highway. O'Reilly-Evans, Jan. 6, 1992, A.G. Op. #91-0833.

The governing authorities of a municipality may name roads, highways, streets, and publicly owned parking lots and driveways; however, there is no authority for such governing authorities to name privately owned parking lots and driveways in the municipality. Edmonson, September 11, 1998, A.G. Op. #98-0540.

§ 65-7-145. Dwelling houses; assignment of street and number address.

Every dwelling house, whether or not located on a public road in this state and not otherwise designated by a street and number address, shall be assigned a street and number address.

SOURCES: Laws, 1977, ch. 441, § 3; Laws, 1986, ch. 508, § 3, eff from and after July 1, 1986.

§ 65-7-147. Repealed.

Repealed by Laws, 1986, ch. 508, § 4, eff from and after July 1, 1986.
[En Laws, 1977, ch. 441, § 4]

Editor's Note — Former § 65-7-147 provided for a feasibility study to determine the cost of a survey to locate and identify roads, streets, highways, and dwelling places not having an official or commonly recognized number, name, or address.

Article 3.

Private Way.

Sec.
65-7-201. Private way established.

§ 65-7-201. Private way established.

When any person shall desire to have a private road laid out through the land of another, when necessary for ingress and egress, he shall apply by petition, stating the facts and reasons, to the special court of eminent domain created under Section 11-27-3 of the county where the land or part of it is located, and the case shall proceed as nearly as possible as provided in Title 11, Chapter 27 for the condemnation of private property for public use. The court sitting without a jury shall determine the reasonableness of the application. The owner of the property shall be a necessary party to the proceedings. If the court finds in favor of the petitioner, all damages that the jury determines the landowner should be compensated for shall be assessed against and shall be paid by the person applying for the private road, and he shall pay all the costs and expenses incurred in the proceedings.

SOURCES: Codes, 1880, § 832; 1892, § 3901; 1906, § 4411; Hemingway's 1917, § 7091; 1930, § 6468; 1942, § 8419; Laws, 1920, ch. 259; Laws, 2003, ch. 535, § 1, eff from and after passage (approved Apr. 20, 2003.)

Cross References — Constitutional provision for condemnation of rights of way for private roads, see Miss. Const. Art. 4, § 110.

JUDICIAL DECISIONS

1. In general.
2. Location of private road.

1. In general.

Special Court of Eminent Domain did not err in denying a petition for the establishment of a private road, pursuant to Miss. Code Ann. § 65-7-201 (Rev. 2005), where the evidence failed to show that a route across the neighboring property was reasonably necessary to access the petitioning property owners' land. McDonald v. King, 60 So. 3d 217 (Miss. Ct. App. 2011).

Trial court did not err in granting an easement of necessity to the landowners as Miss. Code Ann. § 65-7-201 did not provide a complete and adequate remedy to the recognition of the landowners' easement of necessity. Vinoski v. Plummer, 893 So. 2d 239 (Miss. Ct. App. 2004), cert. denied, 893 So. 2d 1061 (Miss. 2005).

Greene County Board of Education's decision to grant an easement over leased land was not reviewable in a circuit court by a petition for a writ of certiorari because the board was acting in an administrative capacity in managing its land; the board's decision was not akin to that of a special court of eminent domain under Miss. Code Ann. § 65-7-201. Jones v. Greene County Bd. of Educ., 968 So. 2d 506 (Miss. Ct. App. 2007), writ of certiorari denied en banc by 968 So. 2d 948, 2007 Miss. LEXIS 628 (Miss. 2007).

County board of supervisors erred when it granted an easement holder access to a private road on property under Miss. Code Ann. § 65-7-201 because an easement already existed, and since there was nothing to show its exact location, a finding that it was unusable could not have been made; further, even assuming the existing easement ran close to or in a creek bed did not entitle the holder to a private way, and she offered no proof regarding the feasibility or expense of constructing a road using her existing easement. Gibbes v. Hinds County Bd. of Supervisors, 952 So. 2d 1011 (Miss. Ct. App. 2007).

Board of Supervisors, in its decision, found the landowner failed to prove his proposed private way was reasonably necessary and not merely for convenience. The Board's reasoning for its unanimous decision was that there were other routes through which the landowner could gain access to a public road but that the landowner failed to present sufficient evidence that his proposed route was the least intrusive to the current owners and the most reasonable to the landowner. Kalom v. Brady, 872 So. 2d 741 (Miss. Ct. App. 2004).

Landowner was not required to petition the county board of supervisors concerning his action to acquire an easement because Miss. Code Ann. § 65-7-201 did not apply to an easement by necessity; by acquiring the dominant estate, one had already paid for and procured the legal right of access to and from that parcel. Fike v. Shelton, 860 So. 2d 1227 (Miss. Ct. App. 2003).

An easement by necessity was required for land owned by a power company as the property was bounded by no property owner from whom it could seek access other than the defendant and it was unreasonable to require the power company to build a bridge across a creek to obtain access. Mississippi Power Co. v. Fairchild, 791 So. 2d 262 (Miss. Ct. App. 2001).

This section did not provide the sole and exclusive remedy where the dispute was not over the private/public character of the property, but rather a dispute regarding easements and rights of access between the property owners involved. Rogers v. Marlin, 754 So. 2d 1267 (Miss. Ct. App. 1999).

Property owners made the required showing that they were unable to obtain a reasonable right of way from their surrounding neighbors. Hooks v. George County, 748 So. 2d 678 (Miss. 1999).

An order granting a private way was premature where there was evidence that the property owners who sought the private way had an alternative means of access to their property and the defendant board did not even respond to such evidence and did not make a finding of fact in this regard. Hooks v. George County, 748 So. 2d 678 (Miss. 1999).

A chancellor's finding that the defendant enjoyed a prescriptive easement over the property in question effectively removed a county board of supervisors from the litigation by rejecting the claim that this section provided the sole and exclusive remedy in the case; thus, the litigation was but a dispute regarding easements and rights of access between the property owners and not a dispute over the private, giving the chancellor jurisdiction to dispose of the matter. Rogers v. Marlin, — So. 2d —, 1999 Miss. App. LEXIS 459 (Miss. Ct. App. July 20, 1999).

The statute does not refer to anything but a "private road" and does not grant the board the right to grant a right of way with, for example, such reasonable conditions as the circumstances require. Bivens v. Mobley, 724 So. 2d 458 (Ct. App. 1998).

Even though state may be acting in a way so as to benefit only one landlocked property owner by granting him private right of way, state is still exercising its power of eminent domain in such matters. Oughton v. Gaddis, 683 So. 2d 390 (Miss. 1996).

When state exercises its power of eminent domain, damage award that beneficiary must pay to duly compensate victim of taking includes fair market value of land actually taken for private easement, and also all damages to remaining land not included in taking; general formula reflecting this principle is to calculate difference between fair market value of entire tract before taking, and fair market value of entire property immediately after taking. Oughton v. Gaddis, 683 So. 2d 390 (Miss. 1996).

Value of land condemned for easement is fair market value others would pay for entire land without easement or right-of-way outlets across other lands. Oughton v. Gaddis, 683 So. 2d 390 (Miss. 1996).

A servient owner's locked gates across a private way of necessity did not constitute an unreasonable interference with the dominant owner's use of the private way, which was granted pursuant to § 65-7-201 for ingress and egress purposes, where the dominant owner had a key to the gates and the servient owner had maintained the gates for use in his cattle operation since he acquired the land in 1969. Griffin v. State, 618 So. 2d 81 (Miss. 1993).

A dominant owner could not place utilities on a private way of necessity, which had been granted pursuant to § 65-7-201 for ingress and egress purposes, since a private way for ingress and egress does not carry with it by implication an easement for running utilities across the private way. Griffin v. State, 618 So. 2d 81 (Miss. 1993).

Section 65-7-201's procedure for establishing a private right-of-way is not a complete and adequate alternative remedy to the recognition and enforcement of an easement of way by necessity; thus, § 65-7-201 was not a bar to the chancery court's granting of equitable relief in establishing an easement by necessity. Broadhead v. Terpening, 611 So. 2d 949 (Miss. 1992).

Landowners who sought a private way across neighboring land met the required burden of proof that a private way was "reasonably necessary" for ingress and egress to their property where their property was bound on 3 sides by water and on the fourth side by the neighboring land. The landowners would not be required to explore the option of building a bridge to their land due to the unreasonableness inherent in such an undertaking; the landowners' burden of proof concerning necessity was met by a showing that they had no other dry access to their land. Alpaugh v. Moore, 568 So. 2d 291 (Miss. 1990).

Section 65-7-57 permits any person to file an application with the board of supervisors requesting the board to lay out a public road, and of necessity the application for the road may describe a right-of-way across the lands of many individual owners, and this section provides that the application of an individual for a private road is subject to the same procedure set forth in Code 1942, § 8314. Rotenberry v. Renfro, 214 So. 2d 275 (Miss. 1968).

The petitioner for the establishment of a private way must allege and show that he has been unable to obtain a reasonable right of way from all of the surrounding property owners, and must show a real necessity for such a right of way, as distinguished from a mere convenience. Rotenberry v. Renfro, 214 So. 2d 275 (Miss. 1968).

In condemnation proceedings where the application seeks to condemn the property of more than one defendant interested in different property, a separate trial must be had for each and, in proceedings by an applicant for a right of way for a private road across the lands of several owners a separate trial should be granted in the circuit court to each of the several landowners to determine by damages done to the various parcels of their land. Rotenberry v. Renfro, 214 So. 2d 275 (Miss. 1968).

Section 110 of the Mississippi Constitution permits the legislature to provide by general vote for condemning rights for a private road and this section was enacted under the power granted by the Constitution. Rotenberry v. Renfro, 214 So. 2d 275 (Miss. 1968).

The landowner's legal expenses, appraisal fees, and expenses incurred in the preparation for a trial could not be part of the costs of the proceedings provided by this section. Reid v. Horne, 208 So. 2d 780 (Miss. 1968).

Under this section it is enough that the road be reasonably, not absolutely, necessary in order that petitioner be afforded a means of ingress and egress over the lands of another. Reid v. Horne, 208 So. 2d 780 (Miss. 1968).

Where a private road is laid out under this section, the landowner should be paid the fair value of the land taken and any damages to his remaining property. Quinn v. Holly, 244 Miss. 808, 146 So. 2d 357 (1962).

It is enough to warrant the laying out of a private road under this section that it is reasonably, even if not absolutely, necessary. Quinn v. Holly, 244 Miss. 808, 146 So. 2d 357 (1962).

This section is constitutional. Quinn v. Holly, 244 Miss. 808, 146 So. 2d 357 (1962).

In a proceeding to have private road laid out through the owner's land, where the petitioners did not offer to pay the owner proposed easement but merely offered the cost of constructing road and did not sign a petition in a manner as to agree to any offer therein contained as to payment of damages, etc., and did not attempt to acquire easement by contract or purchase, and where some of the petitioners owned lands in the area to be served by the private road had access to their land over other road, the board of supervisors was without authority to sustain their petition. Roberts v. Prassenos, 219 Miss. 486, 69 So. 2d 215 (1954).

An owner of land adjoining the school timberlands could not arbitrarily demand from the purchaser of the timber more for a right of way through his land than the same was reasonably worth since under this section the purchaser of the timberlands could acquire such a right of way. State ex rel. Coleman v. Dear, 212 Miss. 620, 55 So. 2d 370 (1951).

2. Location of private road.

County court erred in taking appellants' property for a private road under Miss. Code Ann. § 65-7-201because appellee, who sought the private road to harvest timber on its property, failed to show its lot was physically landlocked and it was unable to secure a reasonable right-of-way to a public road through the properties of surrounding landowners; appellee was not relieved of its obligation to seek a voluntary right-of-way from other surrounding landowners with a simple showing that the alternatives were more expensive or less convenient than its preferred route. Ward v. Trimac Invs., LLC, 78 So. 3d 341 (Miss. Ct. App. 2011), writ of certiorari denied by 78 So. 3d 906, 2012 Miss. LEXIS 41 (Miss. 2012).

In an action for a private right-of-way, the trial court erred in granting a right-of-way along a gravel road across prime farmland owned by the defendants since such a right-of-way would interfere with the business operation of the farm; instead, the court should have awarded a right-of-way in an alternate location, even though the plaintiff would then be required to make substantial improvements to reach his property. Ganier v. Mansour, 766 So. 2d 3 (Miss. Ct. App. 2000).

RESEARCH REFERENCES

ALR. Effect of provisions designating or referring to persons entitled to use right of way created by express grant. 20 A.L.R.2d 796.

Liability in connection with injury allegedly caused by defective condition of private road or driveway. 44 A.L.R.3d 355.

Scope of prescriptive easement for access (easement of way). 79 A.L.R.4th 604.

Am Jur. 2 Am. Jur. Proof of Facts 3d 125, Establishment of Private Prescriptive Easement.

11 Am. Jur. Proof of Facts 3d 601, Easements — Existence of Way of Necessity.

CHAPTER 9

State Aid Roads in Counties

Sec.
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§ 65-9-1. Definition and characteristics of state aid roads.

The board of supervisors of each county, now having full jurisdiction over all roads, ferries, and bridges in its respective county not maintained as state highways, is hereby fully authorized and empowered to construct and maintain the same (including designated state highways not yet taken over by the highway department); and all such roads under the jurisdiction of the several boards of supervisors are hereby designated, defined, and declared to be either (a) "feeder" or "local farm roads" or (b) "state aid roads."

State aid roads are hereby defined as that group or class of roads composing the main collector and distributor routes feeding into local trade areas or into the state highway network, which are not designated as state highways by the Legislature, and particularly those essential to the conservation and development of natural resources, of economic and social value, and encouraging desirable land utilization, having in addition the following characteristics, to wit: roads (including bridges and ferries) which

(a) Connect communities within the individual counties and with those of adjoining counties and/or which also connect with the state highway system to form a complete network of secondary or collector routes.

(b) Carry heavy volumes of traffic serving most of the following interests of the counties, to wit:

(1) Agricultural
(2) Business
(3) Educational
(4) Industrial

The State Aid Engineer shall see that the criteria imposed herein are explicitly followed in the designation and in the construction of the state aid roads in each county. The State Aid Engineer shall promulgate regulations pursuant to the Administrative Procedures Act to require the development of a network of intercounty roads and to provide for a review process within the state aid division for the designation of said state aid roads. Such regulations shall also establish standards for state aid route designation. The State Aid Engineer is hereby authorized and directed to withhold funds from such counties until the state aid roads therein are designated and constructed according to the characteristics set forth herein.

All other roads under the jurisdiction of the several boards of supervisors are hereby declared to be "local farm roads" and not affected in anywise by this chapter.

State aid roads in the several counties shall be eligible for state aid in the manner and under the terms and conditions hereinafter set out. Local system roads (as defined in Section 65-18-3) in the several counties shall be eligible for state aid in the manner and under the terms and conditions set out in the Local System Road Program established in Sections 65-18-1 through 65-18-17. State aid, by way of funds to be expended on state aid roads and local system roads (as defined in Section 65-18-3), shall consist of any sum or sums provided by the Legislature to supplement funds furnished by the several counties for the purpose of constructing, improving, widening, straightening, surfacing, or reconstructing roads on the state aid system or for the purpose of the construction, reconstruction and paving of roads on the Local System Road Program, and shall be available to the several counties in such proportion as may be fixed and determined by law.

SOURCES: Codes, 1942, § 8035-01; Laws, 1949, Ex. Sess. ch. 6, § 4; Laws, 1962, ch. 419; Laws, 1966, ch. 488, § 1; Laws, 1968, ch. 468, § 1; Laws, 1985, ch. 537, § 6; Laws, 2001, ch. 492, § 10, eff from and after July 1, 2001.

Cross References — Administrative Procedures Act, see §§ 25-43-1.101.

Allocation of sales tax receipts to state — aid road construction, see § 27-65-75.

County federal — aid highways, see §§ 65-11-1 et seq.

Responsibility of county road departments for construction and maintenance of all "local farm roads" as defined herein, see § 65-17-1.

Local System Road Program to assist counties in the construction, reconstruction and paving of county roads not on the state aid road system, see §§ 65-18-1 et seq.

JUDICIAL DECISIONS

1. In general.

In an action for damages alleged to have been caused by collision between plaintiff's car and defendant's bull, plaintiff's failure to allege or prove that the road upon which the mishap occurred was a highway of the state maintained by the state highway commission was fatal, since the protective principle of keeping unattended animals off the highway embodied in Code 1942, § 4876.5 (since repealed) was inapplicable to "State Aid Roads." Pennyan v. Alexander, 229 Miss. 704, 91 So. 2d 728, 59 A.L.R.2d 1321 (1957).

ATTORNEY GENERAL OPINIONS

Section 65-9-1 as written does not require that each end of a state aid road connect with the state highway system. If the road does not connect communities, then at least one end of the road must connect with the state highway system to join the complete network. Palmer, February 23, 1996, A.G. Op. #96-0032.

Rights-of-way for bridges which are part of a state-aid road project as defined in Section 65-9-1 are subject to the right of immediate possession set out in Section 11-27-81(d). Williamson, Sept. 21, 2001, A.G. Op. #01-0599.

The Legislature has provided a specific mechanism for allowing counties to receive an advance of the state aid road funds to which they are entitled, and has specifically declared it to be the intent of the statute that state aid road funds be utilized to the greatest extent possible, rather than being held until sufficient amounts to fully fund a project have been accrued in a particular county's account. Kopf, Dec. 6, 2002, A.G. Op. #02-0711.

§ 65-9-3. Allocation of state aid system to counties.

(1) There is hereby set up for designation by cooperative action of the state and counties a state aid system of roads (including bridges and ferries), as classified and defined in Section 65-9-1, which system shall be designated by the several boards of supervisors in their respective counties, with the consent and approval of the State Aid Engineer, to a total mileage not in excess of twenty-five thousand eight hundred fifty-seven and four-hundredths (25,857.04) miles not including any municipal streets, except that a state aid route may be extended into a municipality in order to make a convenient and orderly connection with the nearest paved or surfaced street or highway capable of carrying the traffic originating on or destined for such state aid route and thereby making a systematic connection with the highway and street systems of the state and its political subdivisions. Such system may be modified or revised from time to time by mutual agreement between the said boards of supervisors and the State Aid Engineer. Mileage on the state aid system shall be allocated to the several counties of the state in the following proportions:

(a) One-third (⅓) shall be allocated to all counties in equal shares;

(b) One-third (⅓) shall be allocated to counties based on the proportion that the total number of rural road miles in a county bears to the total number of rural road miles in all counties of the State; and

(c) One-third (⅓) shall be allocated to counties based on the proportion that the rural population of the county bears to the total rural population in all counties of the state, according to the latest federal decennial census.

(2) If the number of miles allocated to any county in accordance with the formula specified in subsection (1) of this section for any fiscal year after fiscal year 1994 is less than the number of miles allocated to that county for fiscal year 1994, then each county in that situation shall be allocated an additional number of miles that, when added to the number of miles allocated to the county in accordance with the formula specified in subsection (1) of this section, will be equal to the number of miles allocated to the county for fiscal year 1994.

SOURCES: Codes, 1942, § 8035.01; Laws, 1949, Ex. Sess. ch. 6, § 4; Laws, 1962, ch. 419; Laws, 1966, ch. 488, § 1; Laws, 1968, ch. 468, § 1; Laws, 1994, ch. 557, § 13, eff from and after July 1, 1994.

Cross References — Requirement that counties maintain all roads and bridges as county-wide unit prior to receipt of state-aid funds, see § 65-9-17.

Accounts and utilization of state aid funds and federal aid secondary funds, see § 65-9-30.

Responsibility of county road departments for construction and maintenance of all "local farm roads" as defined herein, see § 65-17-1.

JUDICIAL DECISIONS

1. In general.

No county has any vested right to any portion of the gasoline tax money except such right as the legislature may grant, and the legislature has the power to distribute a portion of the tax in any manner, upon any basis, and under any formula which it may prescribe. Schaeffer v. Sharp, 328 F. Supp. 762 (S.D. Miss. 1971).

Although an action alleging discriminatory distribution of gasoline and other excise tax funds among the several counties of the State of Mississippi is not violative of the Eleventh Amendment to the U. S. Constitution, a class action to that effect brought by citizens and taxpayers is not an action brought by the real parties in interest, for such parties have no personal interest or personal benefit in the recovery sought. Schaeffer v. Sharp, 328 F. Supp. 762 (S.D. Miss. 1971).

§ 65-9-5. Office of State Aid Road Construction.

There is hereby created within the Mississippi Department of Transportation an office to be called the Office of State Aid Road Construction, for the purpose and charged with the duty of administering this chapter. The office shall be administered by a state aid engineer and such assistant engineers or other employees as may be provided in this chapter. Whenever the term "Division of State Aid Road Construction" appears in the laws of this state, it shall mean the Office of State Aid Road Construction.

All duties, powers and responsibilities for the administration and management of the Office of State Aid Road Construction shall be vested in and performed exclusively by the State Aid Engineer.

All of the powers of the State Aid Engineer herein provided are with reference to the expenditures of state aid funds and are not intended to interfere in any way with the constitutional jurisdiction of any board of supervisors. In order to obtain state aid funds, however, and whenever any state aid funds are being used, the provisions of this chapter shall have full force and effect.

The State Aid Engineer shall adopt a complete, detailed and itemized budget for the Office of State Aid Road Construction, as may be required by the Legislative Budget Office, separate and apart from the budget of the Mississippi Department of Transportation. Copies of the detailed budget shall be filed with the Governor, the Legislative Budget Office and the State Fiscal Management Board on or before April 30 of each year, and shall cover anticipated construction and administrative expenditures for the ensuing fiscal year. No expenditures shall be made in excess of the budget amount approved and appropriated by the Legislature.

SOURCES: Codes, 1942, § 8035-02; Laws, 1949, Ex. Sess. ch. 6, § 5; Laws, 1952, ch. 286, § 1; Laws, 1956, ch. 315; Laws, 1958, ch. 367, § 1; Laws, 1966, ch. 445, § 32; Laws, 1968, ch. 469, §§ 1, 2; Laws, 1984, ch. 488, § 268; Laws, 1992, ch. 496, § 13, eff from and after July 1, 1992.

Cross References — Joint legislative budget committee and Legislative Budget Office, generally, see §§ 27-103-101 et seq.

Preparation of a budget by the Legislative Budget Office, see §§ 27-103-113 et seq.

ATTORNEY GENERAL OPINIONS

The Office of State Aid Roads, although administered by the State Aid Engineer and operated under a separate budget, is a division within the Mississippi Department of Transportation which, through its commissioners, is given the authority to provide appropriate office space for its various divisions, and may relocate any of its offices, if such a move is deemed necessary for the administration of the Department. Miller, Sept. 9, 2002, A.G. Op. #02-0444.

§ 65-9-7. Division may own and operate automobiles.

The Division of State Aid Road Construction of the Mississippi State Highway Department, is hereby authorized and empowered to own and operate seven passenger automobiles, the same to be purchased, owned, and operated in strict accordance with the provisions of Sections 25-1-77 through 25-1-93, Mississippi Code of 1972.

SOURCES: Codes, 1942, § 8035-02.5; Laws, 1952, ch. 286, § 3; Laws, 1958, ch. 367, § 2; Laws, 1962, ch. 448, eff from and after passage (approved May 28, 1962).

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

Cross References — Purchase of automobiles for state officers and employees, see § 25-1-77.

§ 65-9-9. State Aid Engineer and employees.

The State Aid Engineer shall be appointed by the Governor for a term of two (2) years, subject to removal pursuant to Section 25-9-101 et seq. by the Governor at any time; provided, however, upon the expiration of the term of the State Aid Engineer serving on July 1, 1985, the State Aid Engineer shall be appointed by the Governor for a term of four (4) years. The State Aid Engineer shall be a registered engineer with at least eight (8) years' experience as a county road or highway engineer and a thorough knowledge of rural road problems. He shall be paid a salary equal to that paid assistant chief engineers of the Mississippi Department of Transportation as established by the department's personnel and merit system, plus travel expenses actually incurred by him in the discharge of his duties; and he shall, each month, make a detailed report to the Governor of such expenses. He shall be authorized to employ assistant state aid engineers, together with such other engineers, employees, and other assistants as may be necessary to carry out the terms of this chapter, all of whom may be removed at any time by the State Aid Engineer. The compensation of all such engineers, employees, and assistants shall be comparable to the salaries of like employees of the Mississippi Department of Transportation.

The State Aid Engineer, before entering upon the discharge of his duties, shall give bond in the sum of Twenty-five Thousand Dollars ($25,000.00) in some surety company authorized to do business in this state, which bond shall be conditioned for the faithful performance of his duties; and likewise each assistant state aid engineer shall give bond in the sum of Ten Thousand Dollars ($10,000.00) conditioned for the faithful performance of his duties. The State Aid Engineer is hereby authorized to require other assistants who are charged with responsible duties to likewise give bond in amounts not to exceed Ten Thousand Dollars ($10,000.00) each, conditioned for the faithful performance of their duties.

The salaries of the State Aid Engineer and his assistants and of all other employees of the Office of State Aid Road Construction, and all other expenses incurred by the Office of State Aid Road Construction in carrying out the provisions of this chapter, including the premiums of bonds of the State Aid Engineer, assistant state aid engineers, and other assistants, shall be paid from the State Aid Road Fund in the State Treasury prior to allocation to the several counties, by requisition drawn by the State Aid Engineer directed to the Department of Finance and Administration, which will issue its warrant to the State Treasurer in the sum and for the purpose stated in the requisition. The State Aid Engineer shall, each month, make a detailed report to the Governor of all expenditures so made.

SOURCES: Codes, 1942, § 8035-02; Laws, 1949, Ex. Sess. ch. 6, § 5; Laws, 1952, ch. 286, § 1; Laws, 1956, ch. 315; Laws, 1958, ch. 367, § 1; Laws, 1966, ch. 445, § 32; Laws, 1968, ch. 469, §§ 1, 2; Laws, 1985, ch. 537, § 7; Laws, 1992, ch. 496, § 14, eff from and after July 1, 1992.

§ 65-9-11. Duties of State Aid Engineer.

It shall be the duty of the State Aid Engineer to advise with the boards of supervisors of the several counties on all matters of policy, use of funds, priority of construction, uniform standards for state aid roads, safeguards in accounting methods, and other related matters and to cooperate with the several boards of supervisors on all matters connected with the laying out and construction of the state aid system of county roads. The State Aid Engineer shall promulgate, as soon as practicable, such uniform and reasonable rules and regulations as he may deem necessary to effectuate a proper designation of state aid roads to be constructed in each county, the methods for determining priority of construction, the making of surveys, and the preparation of plans and specifications for the construction of state aid roads, and to provide a uniform system of accounting in the expenditure of state aid road funds. The State Aid Engineer, after conferring with the Chief Engineer of the State Highway Department, shall prepare and promulgate uniform design standards and specifications for the construction of the state aid road system, which said uniform design standards and specifications may be modified or amended from time to time as the State Aid Engineer may deem necessary. Such standards may be in one or more classifications, according to types and kinds of roads. After such uniform design standards and specifications have been prepared and approved by the State Aid Engineer, the boards of supervisors shall apply the same to all new construction of state aid roads in their counties and, unless not practicable and feasible, to reconstruction of old roads on the state aid road system; but no deviation from such uniform standards and specifications shall be made without the approval of the State Aid Engineer.

It shall also be the duty of the State Aid Engineer to advise and cooperate with the boards of supervisors in the selection and designation of the county roads which are to be made a part of the state aid road system, as provided in this chapter, and to approve or disapprove the selection of roads to be made a part of the state aid road system by the boards of supervisors.

The State Aid Engineer shall finally approve or disapprove all contracts advertised and let by any board of supervisors for the construction or reconstruction of state aid roads and he shall approve or disapprove any or all force account estimates for such construction. If disapproved, he shall give a notice to said county of his disapproval and state each reason, and he shall give the said county time to cure the defects, or such parts thereof as may be necessary to cure, so that the county may receive its share of state aid.

All proposals covering work to be performed by any county with its own forces on state aid roads and all force account estimates submitted for approval shall be on forms prepared for the purpose by the State Aid Engineer. Such forms shall be in such detail and based upon such cost accounting rules and regulations as may be prescribed from time to time by the State Aid Engineer, but in no event shall the purchase of any road machinery or other general equipment out of the state aid road funds be allowed or permitted by such rules and regulations. Force account estimates may include a reasonable rental for machinery or equipment, and the reasonableness of the rental so estimated and as actually paid shall be subject at all times to modification, revision, approval, or disapproval of the State Aid Engineer and under the cost accounting rules and regulations promulgated by him.

The State Aid Engineer and such assistants as he may designate shall supervise and inspect all state aid road projects as the work progresses. Upon final completion of any such project, the State Aid Engineer shall cause a final inspection to be made of such project for the purpose of determining whether such project has been completed satisfactorily in accordance with the plans and specifications; and if satisfactorily completed, the State Aid Engineer shall approve payment of the final estimate on such project. No progress or final estimate, either on a contract or a force account project, shall be paid unless approved in such manner by the State Aid Engineer, and on all such contracts or force account projects a percentage of not less than two and one-half percent (2½%) nor more than ten percent (10%) of each estimate thereon paid shall be retained until final acceptance of such project; provided, however, the amount retained by the prime contractor from each payment due the subcontractor shall not exceed the percentage withheld from the prime contractor.

SOURCES: Codes, 1942, § 8035-03; Laws, 1949, Ex. Sess. ch. 6, § 6; Laws, 1976, ch. 450, § 2; Laws, 1979, ch. 454, § 3, eff from and after July 1, 1979.

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

Cross References — Approval by State Aid Engineer of advance crediting of state-aid funds, see § 65-9-17.

Duties of State Aid Engineer regarding accounts and utilization of state aid funds and federal aid secondary funds, see § 65-9-30.

State Aid Engineer to provide written notice to counties before forfeiture of monies allocated to them under §§ 65-37-1 through 65-37-15 for failure to expend the funds for two successive fiscal years, see § 65-37-7.

§ 65-9-13. Right of county to state aid.

Any county shall be entitled to receive state aid and to expend state aid monies in conjunction with monies furnished by said county on state aid roads in such county on projects approved for construction in such county, provided:

(a) The state aid system in such county has been designated and approved as herein provided.

(b) The county has employed a county engineer to act for and on behalf of the county as a whole, who shall be a registered professional engineer, and such other competent technical assistants as may from time to time be deemed necessary by the board of supervisors of said county.

(c) An annual program shall have been filed by the county engineer with the division of state aid road construction and approved by the State Aid Engineer, and in accordance with the uniform design standards and specifications set up by the State Aid Engineer; such program may be modified or revised in whole or in part by the State Aid Engineer, with the agreement of the county involved.

(d) Such county has complied with all rules and regulations promulgated by the State Aid Engineer.

SOURCES: Codes, 1942, § 8035-04; Laws, 1949, Ex. Sess. ch. 6, § 7; Laws, 1958, ch. 214; Laws, 1970, ch. 437, § 1, eff from and after passage (approved March 28, 1970).

Cross References — County engineer, see § 65-9-15.

Forfeiture of state aid, see § 65-9-27.

ATTORNEY GENERAL OPINIONS

Miss. Code Section 65-9-13 provides for employment of county engineer as condition precedent to allocation of state-aid road funds to county. Davis, May 24, 1993, A.G. Op. #93-0241.

Miss. Code Section 65-9-13 provides that, in order for county to receive state-aid funds, it must employ "a county engineer to act for and on behalf of the county as a whole, who shall be a registered professional engineer, and such other competent technical assistants as may from time to time be deemed necessary by the board of supervisors of said county"; statute does not contemplate appointment of professional association. Davis, May 24, 1993, A.G. Op. #93-0241.

§ 65-9-15. County engineer.

Nothing herein shall prevent any county from employing, by agreement with not more than four (4) other counties, the same engineer to act as county engineer for each and all of said counties so agreeing. Each county engineer shall give bond, with sufficient surety, to be payable, conditioned and approved as provided by law, in a penalty not less than Fifty Thousand Dollars ($50,000.00). If a county engineer is engineer for two (2) or more counties, the same bond shall serve as said engineer's bond in and for each county, respectively, and the premium on said bond and the salary and expenses of such engineer and assistants shall be divided between and paid by the counties for whom he is so employed in such proportions as may be agreed upon by said counties. In the event any county is unable to obtain the services of a competent engineer, the Transportation Commission may loan such county an engineer, if available, for a specified period of time, by granting such engineer a leave of absence for such period without loss of any benefits accruing to him by reason of length of service; and such time so spent on such leave of absence shall be counted as part of such engineer's length of service with the Department of Transportation. The salary of such engineer so loaned shall be paid by the county or the counties to whom he is loaned.

The salary and other expenses, including the premium on all bonds, of the county engineer and his assistants shall be paid by the county or counties employing such county engineer and assistants. Any salary limitations or ceiling heretofore placed by law on the salary of a county engineer is hereby removed as to county engineers employed under the terms of this chapter. In lieu of salary and other expenses, any county may employ a registered civil engineer on a fee basis for furnishing complete engineering services on state aid projects. Engineering costs, including the salaries or fees of the county engineer, incurred on state aid projects may be paid from state aid funds allocated to said county or counties, with the methods of payments to be approved by the State Aid Engineer under regulations promulgated by the State Aid Engineer; however, unless the project is being partially funded with federal funds, no such costs shall be paid to the county from state aid funds prior to the approval for advertisement for bids for a project by the State Aid Engineer. If the project is being partially funded with federal funds, the State Aid Engineer may approve payment of a portion of such costs from state aid funds prior to the approval for advertisement for bids.

SOURCES: Codes, 1942, § 8035-04; Laws, 1949, Ex. Sess. ch. 6, § 7; Laws, 1958, ch. 214; Laws, 1970, ch. 437, § 1; Laws, 1986, ch. 458, § 43; Laws, 1994, ch. 371, § 1; Laws, 2009, ch. 467, § 22, eff from and after July 1, 2009.

Editor's Note — Laws, 1986, ch. 458, § 48, provided that § 65-9-15 would stand repealed from and after October 1, 1989. Subsequently, three 1989 chapters (341, 342, and 343) amended Section 48, Chapter 458, Laws, 1986, by deleting the date for repeal.

Amendment Notes — The 2009 amendment substituted "not less than Fifty Thousand Dollars ($50,000.00)" for "equal to Ten Thousand Dollars ($10,000.00)" at the end of the second sentence of the first paragraph.

Cross References — Supervision of the county engineer over county facilities and equipment as a whole, see § 65-9-17.

JUDICIAL DECISIONS

1. In general.

A county engineer, whose employment contract with the county had expired, was entitled to recover his fee for projects begun before the expiration date of his last contract and finished afterward, where the contract provided that he would be paid one fee when each project was finished and accepted, and no provision was made for piecemeal payment as the work progressed. Burt v. Calhoun, 231 So. 2d 496 (Miss. 1970).

Where the contract of a county engineer was extended by action of the board of supervisors, which action was recorded on the Board's minutes, but after expiration of the extension, no subsequent contract appeared upon the minutes, although the board continued to submit an annual program to the state for projects for which the engineer was required, and continued to record the engineer's estimate for each project and to record notice to bidders based on such estimate, the county engineer had no legal contract with the county after expiration of the extension and could not recover for projects begun after that date. Burt v. Calhoun, 231 So. 2d 496 (Miss. 1970).

ATTORNEY GENERAL OPINIONS

Based on Miss. Code Section 65-9-15, county may hire one engineer, and such assistants as may be necessary, to handle each separate state aid project. Kilpatrick, Jan. 14, 1993, A.G. Op. #92-0994.

Miss. Code Section 65-9-15 allows up to five counties to use services of same engineer; this section also provides, in second paragraph, that this engineer may be paid on fee basis "in lieu of salary and other expenses." Davis, May 24, 1993, A.G. Op. #93-0241.

Fees earned under Miss. Code Section 65-9-15 are subject to state retirement withholdings. Davis, May 24, 1993, A.G. Op. #93-0241.

§ 65-9-17. State aid funds.

(1) When any county shall have met the requirements of this chapter and shall have become eligible for state aid, the State Aid Engineer, as soon as practicable, shall notify such county in writing of such eligibility and that its proportionate part of any state funds allocated to it for state aid may be utilized for construction in the manner provided by law, and such notice shall also be given in writing to the Department of Finance and Administration and to the State Treasurer.

(2) State aid funds shall be allocated to each county for use on state aid system roads or roads on the Local System Road Program in accordance with the provisions of Section 27-65-75.

(3) State aid funds may be credited to a county in advance of the normal accrual to finance certain state aid improvements, subject to the approval of the State Aid Engineer and subject further to the following limitations:

(a) That the maximum amount of state aid funds that may be advanced to any county shall not exceed ninety percent (90%) of the state aid funds estimated to accrue to such county during the remainder of the term of office of the board of supervisors of such county.

(b) That no advance credit of funds will be made to any county when the unobligated balance in the State Aid Road Fund is less than One Million Dollars ($1,000,000.00).

(c) That such advance crediting of funds be effected by the State Aid Engineer at the time of the approval of the plans and specifications for the proposed improvements.

It is the intent of this provision to utilize to the fullest practicable extent the balance of state aid funds on hand at all times.

(4) State aid funds shall be available to such county to the following extent and in the following manner:

(a) On state aid projects, other than those on or off the federal aid secondary system to be partially financed with federal funds, state aid funds credited to such county in the State Aid Road Fund shall be available to cover the cost of such project. Upon the awarding of a contract for such state aid project, the board of supervisors of any county will, by an official order of the board, authorize the State Aid Engineer to set up the project fund for such project from that county's state aid fund in the State Treasury. The amount of the project fund will cover the estimated cost of the project, including the contractor's payments and any other costs authorized under this chapter to be paid from state aid funds. Withdrawals from the project fund will be made by requisitions prepared by the State Aid Engineer, based on estimates and other supporting statements and documents prepared or approved by the county engineer, such requisitions, accompanied by such estimates and statements, to be directed to the Department of Finance and Administration, which will issue warrants in payment thereof. Requisitions may be drawn to cover the final cost of the project accepted by the boards of supervisors of the counties affected and the State Aid Engineer, even though such cost exceeds the aforesaid estimated project fund. Whenever, in the opinion of the State Aid Engineer, it should appear that any such estimate or statement of account has been improperly allowed or that any road construction project is not proceeding in accordance with the plans, specifications and standards set up therefor, then, in such event, due notice in writing shall be given the board of supervisors of such county and the contractor on such project, if any, stating the reason why such account should not have been allowed or why such project is not progressing satisfactorily; and if, within thirty (30) days from the date of such notice in writing, such error or default is not corrected to the satisfaction of the State Aid Engineer, all state aid funds theretofore allocated to such eligible county shall be immediately withdrawn and notice given the Department of Finance and Administration and the State Treasurer that such county has become ineligible therefor. Such county shall remain ineligible until it again becomes eligible by satisfying the State Aid Engineer as to its eligibility.

(b) On state aid projects on the federal aid secondary system which are to be partially financed with federal funds, state aid funds credited to such county in the State Aid Road Fund shall be available to cover the sponsor's share of the cost of such project. At the same time, the State Treasurer, on order from the board of supervisors, shall transfer an amount up to one hundred percent (100%) of such cost from the credit of such county in the State Aid Road Fund to the credit of such county in the State Highway Fund, earmarked for such project.

(c) State aid road funds credited to a county in the State Aid Road Fund shall also be available to cover the sponsor's cost of any other project of such county which is partially financed with federal funds available through federal "safer off-system" road funds and/or other federal road funds allocated to the counties as provided for in accordance with Section 65-9-29(2). On order from the board of supervisors of such county, the State Treasurer shall transfer an amount up to one hundred percent (100%) of such cost from the credit of such county in the State Aid Road Fund to the credit of such county in the State Highway Fund, earmarked for such project.

(d) Up to one-third (⅓) of state aid road funds credited to a county in the State Aid Road Fund may be available to match federal bridge replacement monies or other federal funds, or both, to construct, replace, inspect or post bridges and to conduct pavement management surveys on county roads which are not on the state aid system. To implement such projects, the State Treasurer shall, as requested in an order from the board of supervisors of the county, make transfers out of the credit of such county in the State Aid Road Fund.

(e) Up to twenty-five percent (25%) of the state aid road funds credited to a county in the State Aid Road Fund may be available for projects authorized under the Local System Road Program. Withdrawals from the fund for the Local System Road Program will be made by requisitions prepared by the State Aid Engineer, based on estimates and other supporting statements and documents prepared or approved by the county engineer; such requisitions, accompanied by such estimates and statements, to be directed to the Department of Finance and Administration, which will issue warrants in payment thereof. Requisitions may be drawn to cover the final cost of the local system road project accepted by the boards of supervisors of the counties affected and the State Aid Engineer even though such cost exceeds the aforesaid estimated project fund. Whenever, in the opinion of the State Aid Engineer, it should appear that any such estimate or statement of account has been improperly allow ed or that any road construction project is not proceeding in accordance with the plans, specifications and standards set up therefor, then, in such event, due notice in writing shall be given the board of supervisors of such county and the contractor on such project, if any, stating the reason why such account should not have been allowed or why such project is not progressing satisfactorily; and if, within thirty (30) days from the date of such notice in writing, such error or default is not corrected to the satisfaction of the State Aid Engineer, all state aid funds theretofore allocated to such eligible county shall be immediately withdrawn and notice given the Department of Finance and Administration and the State Treasurer that such county has become ineligible therefor. Such county shall remain ineligible until it again becomes eligible by satisfying the State Aid Engineer as to its eligibility.

(5) The State Treasurer is hereby authorized to continue to receive and deposit all funds from the federal government made available by it, either by existing law or by any law which may be passed hereafter, to the credit of the State Highway Fund, and the Treasurer shall notify the commission of the amounts so received.

All accounts against the above-mentioned funds shall be certified to by the Executive Director of the Mississippi Department of Transportation, who shall request the Department of Finance and Administration to issue its warrant on the State Treasurer for the amount of the accounts; and the Treasurer shall pay same if sufficient funds are available, all in the manner prescribed herein or as may be required by law.

(6) The board of supervisors of each county is hereby authorized and empowered to pay funds into the State Treasury in the manner above set out, and to use and expend such funds for the purposes set out in this chapter. For the purpose of providing such funds, the board of supervisors is hereby authorized and empowered to use and expend any county road and bridge funds, including revenue received from any gasoline taxes paid to such county, or any funds available in the General Fund, or to issue road and bridge bonds of such county in any lawful amount in the manner and method and subject to the restrictions, limitations and conditions, and payable from the same sources of revenue, now provided by law.

SOURCES: Codes, 1942, § 8035-05; Laws, 1949, Ex. Sess. ch. 6, § 8; Laws, 1952, ch. 288; Laws, 1962, ch. 447; Laws, 1968, ch. 470, § 1; Laws, 1970, ch. 438, § 1; Laws, 1978, ch. 516, § 3; Laws, 1981, ch. 464, § 31; Laws, 1988 Ex Sess, ch. 14, § 46; Laws, 1989, ch. 368, § 1; Laws, 1992, ch. 325 § 1; Laws, 1995, ch. 401, § 1; Laws, 2001, ch. 492, § 11, eff from and after July 1, 2001.

Cross References — Applicability of this section to handling various shares under agreements for highway projects forming part of plan under Title 23 of the United states Code, see § 65-1-77.

Allocation of state aid to counties generally, see § 65-9-3.

County engineer, see § 65-9-15.

Distribution of a portion of proceeds of gasoline, diesel fuel, or kerosene taxes provided for in § 27-5-101 to the Division of State Aid Road Construction Fund created by § 65-9-17, see § 27-65-75.

Federal aid secondary system roads, see § 65-9-29.

Allocation and matching of federal aid secondary funds, federal "safer off-system" funds and federal aid off-system highway funds, see § 65-9-29.

Accounts and utilization of state aid funds and federal aid secondary funds, see § 65-9-30.

ATTORNEY GENERAL OPINIONS

Local System Bridge Replacement and Rehabilitation Program funds may be allocated to the county by the State Aid Engineer for use in construction, reconstruction, and paving of local system roads, provided (1) all the local system bridges have a sufficiency rating of 50 or greater or those bridges with a sufficiency rating of less than 50 are currently under contract for replacement or rehabilitation, and (2) the requirements of Section 6 of SB 2318 are met. Gore, III, Aug. 31, 2001, A.G. Op. #01-0553.

The Legislature has provided a specific mechanism for allowing counties to receive an advance of the state aid road funds to which they are entitled, and has specifically declared it to be the intent of the statute that state aid road funds be utilized to the greatest extent possible, rather than being held until sufficient amounts to fully fund a project have been accrued in a particular county's account. Kopf, Dec. 6, 2002, A.G. Op. #02-0711.

§ 65-9-19. Contracts.

Contracts for the construction of state aid road projects shall be advertised and let by the board of supervisors of any county desiring so to do, in the manner now required by law but subject to the approval of the State Aid Engineer; however, during the last six months of the boards of supervisors' terms of office, no contracts for state aid projects shall be awarded unless construction programs embracing such projects shall have been adopted by the boards and approved by the State Aid Engineer in writing prior to July 1 of said year. Before advertising for bids, detailed plans and specifications covering the work proposed to be done shall be prepared and filed in the chancery clerk's office of the interested county and in the office of the State Aid Engineer; and copies shall be subject to inspection by any party during all office hours, and shall be made available to all prospective bidders upon such reasonable terms and conditions as may be required by the State Aid Engineer. All plans and specifications shall be initially prepared by the county engineer, subject to the approval or disapproval of the State Aid Engineer. All rights of way necessary for such projects shall be acquired and paid for by the boards of supervisors in the manner now provided by law for the acquisition of rights of way, including gift, purchase, deed, dedication, and eminent domain; however, the cost of such rights of way shall not be considered to be a part of the cost of any project within the meaning of Section 65-9-17. The acts of the boards of supervisors in heretofore acquiring rights of way for such projects, and all rights of way heretofore acquired for such projects are hereby ratified, confirmed, and validated.

SOURCES: Codes, 1942, § 8035-06; Laws, 1949, Ex. Sess. ch. 6, § 9(¶ 1); Laws, 1952, ch. 286, § 2(¶ 1); Laws, 1955, Ex. Sess. ch. 67(¶ 1); Laws, 1958, ch. 367, § 3(¶ 1); Laws, 1962, ch. 449, § 1(¶ 1); Laws, 1963, 1st Ex. Sess. ch. 20, § 1(¶

1); Laws, 1966, ch. 490, § 1; Laws, 1968, ch. 471, § 1, eff from and after July 1, 1968.

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

Cross References — State products used in public works, see § 31-5-23.

Invalidity of "hold harmless" clauses in public and private construction contracts, see § 31-5-41.

Highway Department's eminent domain powers, see § 65-1-47.

Awarding of contracts by Mississippi Transportation Commission, see § 65-1-85.

Damages for taking land for highway purposes, see § 65-7-61.

Eminent domain powers of board of supervisors, see § 65-7-89.

§ 65-9-21. Painting of center line safety stripes.

The board of supervisors is further authorized and empowered to paint center line safety stripes on all state aid roads heretofore or hereafter constructed in the several counties, by the use of its own crews and facilities or by public contract. The striping shall be applied of the materials and in the manner as the State Aid Engineer shall require. The board, subject to the approval of the State Aid Engineer, may include such striping in the same contract for the completion of the state aid road itself, or by a separately advertised and awarded contract. Funds necessary to carry out this section shall be as provided in the construction of the state aid road itself. The State Aid Engineer is authorized to promulgate and adopt reasonable regulations he may deem necessary and requisite in carrying out the provisions of this section.

SOURCES: Codes, 1942, § 8035-06; Laws, 1949, Ex. Sess. ch. 6, § 9(¶ 1); Laws, 1952, ch. 286, § 2(¶ 1); Laws, 1955, Ex. Sess. ch. 67(¶ 1); Laws, 1958, ch. 367, § 3(¶ 1); Laws, 1962, ch. 449, § 1(¶ 1); Laws, 1963, 1st Ex. Sess. ch. 20, § 1(¶ 1); Laws, 1966, ch. 490, § 1; Laws, 1968, ch. 471, § 1, eff from and after July 1, 1968.

§ 65-9-23. Accounting controls and safeguards.

Such accounting controls and safeguards, including those already provided in this chapter, may be required of each board of supervisors as, in the discretion of the State Aid Engineer, may be deemed necessary; but general and uniform rules and regulations thereasto shall be first promulgated by said State Aid Engineer, only with the advice and approval of the State Auditor.

SOURCES: Codes, 1942, § 8035-07; Laws, 1949, Ex. Sess. ch. 6, § 9(¶ 2); Laws, 1952, ch. 286, § 2(¶ 2); Laws, 1955, Ex. Sess. ch. 67(¶ 2); Laws, 1958, ch. 367, § 3(¶ 2); Laws, 1962, ch. 449, § 1(¶ 2); Laws, 1963, 1st Ex. Sess. ch. 20, § 1(¶ 2), eff from and after passage (approved March 2, 1963).

Editor's Note — Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor, " and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer.

Section 27-104-6 provides that whenever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration".

§ 65-9-25. Maintenance of state aid roads.

It shall be the duty of the several boards of supervisors to properly maintain all state aid roads in their respective counties after construction of any such roads with state aid monies. It shall be the duty of the State Aid Engineer and his assistants to make annual maintenance inspections of completed projects, and such other periodic maintenance inspections as the State Aid Engineer shall deem necessary. If essential maintenance is not properly and regularly carried on, in the opinion of the State Aid Engineer, then notice thereof shall be given in writing to the board in default, and if such maintenance is not done and continued within sixty (60) days from date of such notice, then, and in such event, the State Aid Engineer may proceed to have done the necessary maintenance and repair work on such road and charge the same to any funds in the State Aid Road Fund in the State Treasury allocated to such county. If such failure to maintain continues, then such county shall be no longer eligible for state aid until proper maintenance is resumed by it, and notice of such withdrawal of state aid shall be duly given the State Treasurer; however, such ineligibility shall not affect payment from the State Aid Road Fund of progress or final estimates on contracts awarded prior to notice of such ineligibility, nor shall that ineligibility in any way affect the payment of principal and interest on state aid road bonds issued by any such county.

State aid roads which have been hard surfaced through the use of state aid funds or federal aid funds shall be eligible for state aid funds to provide one or more seal courses, as required. State aid roads in which the grading and drainage structures were constructed under state aid projects and which have been subsequently hard surfaced by the county through the use of county funds under the supervision of the county engineer shall likewise be eligible for state aid funds to provide one or more seal courses as required, provided that the hard surfacing and underlying base were constructed in accordance with the then prevailing state aid standards and specifications. The county shall furnish the State Aid Engineer with sufficient engineering data, including borings and tests, if necessary, to substantiate the required thickness and quality of the base and surfacing. The correction of base defects and pavement breaks may be made part of the plans and contract documents for each sealing project.

State aid roads which were constructed in accordance with the then prevailing state aid standards and specifications shall be eligible for state aid funds for maintenance, repair and reconstruction, subject to the prior written approval of such work by the State Aid Engineer and subject to the work being completed in accordance with the prior written approval.

SOURCES: Codes, 1942, § 8035-08; Laws, 1949, Ex. Sess. ch. 6, § 9(¶ 3); Laws, 1952, ch. 286, § 2(¶ 3); Laws, 1955, Ex. Sess. ch. 67(¶ 3); Laws, 1958, ch. 367, § 3(¶ 3); Laws, 1962, ch. 449, § 1(¶¶ 3, 4); Laws, 1963, 1st Ex. Sess. ch. 20, § 1(¶¶ 3, 4); Laws, 1966, ch. 491, § 1; Laws, 1981, ch. 542, § 1; Laws, 1982, ch. 324; Laws, 2009, ch. 546, § 18, eff from and after passage (approved Apr. 15, 2009.)

Cross References — Forfeiture of state aid by continued ineligibility, see § 65-9-27.

JUDICIAL DECISIONS

1. In general.
2. Duty.

1. In general.

County was not immune from its duty to properly maintain, inspect, and perform such other duties as may be required by law, with respect to the bridge; pursuant to Miss. Code Ann. § 65-7-117 and Miss. Code Ann. § 65-9-25, the county was under the statutory duty to properly maintain and to inspect State Aid roads such as the bridge where the accident occurred. Ladner v. Stone County, 938 So. 2d 270 (Miss. Ct. App. 2006), writ of certiorari denied by 937 So. 2d 450, 2006 Miss. LEXIS 542 (Miss. 2006).

In a family's suit following a car accident, summary judgment in favor of the department of transportation, the county, and the engineer was proper as the family failed to produce sufficient evidence to establish that the last inspection by the department was negligently performed, or that the county or the engineer negligently inspected and maintained the culvert. Jenkins v. Miss. DOT, 904 So. 2d 1207 (Miss. Ct. App. 2004).

2. Duty.

Since the State Aid defendants did not have a duty to repair or maintain the bridge where the accident occurred, the driver could not maintain a negligence action against them for breach of this duty; accordingly, the trial court was correct to dismiss the failure to maintain and negligent repair counts against the State Aid defendants. Ladner v. Stone County, 938 So. 2d 270 (Miss. Ct. App. 2006), writ of certiorari denied by 937 So. 2d 450, 2006 Miss. LEXIS 542 (Miss. 2006).

§ 65-9-27. Forfeiture of state aid.

Whenever any county is ineligible for state aid under the provisions of this chapter for a continuous period of four (4) years, then such county shall forfeit and no longer be entitled to any part of the funds in the State Aid Road Fund theretofore allocated to it; and the balance of such funds so theretofore allocated to it shall be reallocated pro rata between all other eligible counties in the same relative proportions as those specified in any law providing state aid road funds.

SOURCES: Codes, 1942, § 8035-09; Laws, 1949, Ex. Sess. ch. 6, § 9(¶ 4); Laws, 1952, ch. 286, § 2(¶ 4); Laws, 1955, Ex. Sess. ch. 67 (¶ 4); Laws, 1958, ch. 367, § 3(¶ 4); Laws, 1962, ch. 449, § 1(¶ 5); Laws, 1963, 1st Ex. Sess. ch. 20, § 1(¶ 5); Laws, 1994, ch. 557, § 38, eff from and after July 1, 1994.

Cross References — Right of county to state aid, see § 65-9-13.
Ineligibility for state aid due to failure to maintain state aid roads, see § 65-9-25.

§ 65-9-29. Allocation and matching of certain federal road construction funds.

(1) Federal aid secondary funds allocated to Mississippi and to be expended on the federal aid secondary system roads shall be expended as follows:

(a) Effective only upon the passage of an act of the Legislature providing state aid funds, federal aid secondary funds allocated to Mississippi and to be expended on the federal aid secondary system shall be divided between the State Highway Department and the several counties, so that fifty percent (50%) will be matched by the State Highway Department and expended on the federal aid secondary system roads on the state highway system, and fifty percent (50%) matched by the counties with state aid funds and expended on the federal aid secondary roads of the state aid road system.

(b) Such division will be made upon allocation by the Administrator of the Federal Highway Administration after the highway department provides for the matching of the percent of such allotment as covered by federal act and available for financing in part the State Highway Department's Division of Highway Planning. The expenditure of all federal aid secondary funds shall be through and under the highway department, subject to and in accordance with all rules and regulations and applicable laws of the federal government.

(c) The amount of funds allocated to each county for use on state aid system roads will be apportioned among the counties of this state by the State Highway Commission in accordance with the formula in the manner provided in Section 65-9-3, Mississippi Code of 1972. The State Highway Commission is authorized to finance from its own funds the preliminary surveys, engineering and plans for all work involving funds expended on federal aid secondary projects on the state aid road system, and the rights-of-way required for state aid system roads constructed with federal aid secondary funds will be provided by the county receiving such aid from its funds other than state aid funds. The highway commission will program federal aid secondary funds made available to the counties under this act on such projects and limited to such counties as recommended by the State Aid Engineer.

(2) Federal "safer off-system" funds, and/or any other available federal road funds, except the federal aid secondary funds hereinabove provided for separately, allocated to Mississippi and to be expended on county roads, but not on the designated state highway system, shall be expended as follows:

(a) Federal "safer off-system" funds and/or any such other available federal road funds shall be matched with available state aid funds and expended on such county roads.

(b) The expenditure of such federal "safer off-system" funds and/or all such other available federal road funds shall be through and under the State Highway Department, subject to, and in accordance with, all rules and regulations and applicable laws of the federal government.

(c) The amount of such federal "safer off-system" funds and/or all such other available federal road funds allocated to each county for use on such county roads will be apportioned among the counties of this state by the State Highway Commission in accordance with the formula in the manner provided in Section 65-9-3, Mississippi Code of 1972. The State Highway Commission will program such federal "safer off-system" funds and/or all such other available federal road funds made available to the counties on such projects and limited to such counties as recommended by the State Aid Engineer.

(3) Federal aid off-system highway funds allocated to Mississippi, (except federal aid secondary funds and federal "safer off-system" funds provided for separately in subsections (1) and (2) of this section), including federal bridge replacement funds and other special grants made available for expenditure of county roads, shall be expended as follows:

(a) Federal aid off-system highway funds expended on state aid roads shall be matched with available state aid funds and/or other available local funds, or as otherwise provided in Section 65-1-70, Mississippi Code of 1972.

(b) Federal aid off-system highway funds available for expenditure on roads not on the state aid system and not eligible for inclusion on the state aid system shall be matched with available local funds, or as otherwise provided in Section 65-9-17 or Section 65-1-70, Mississippi Code of 1972.

(c) The expenditure of all federal off-system highway funds on county roads shall be programmed by the State Highway Commission, subject to and in accordance with applicable federal law, rules and regulations, and limited to such county projects as recommended by the State Aid Engineer. The State Aid Engineer is authorized to assign state aid personnel to administer off-system construction projects and other special federal aid program requirements in the same manner and under the same provisions and conditions as other projects authorized under this chapter.

SOURCES: Codes, 1942, § 8035-10; Laws, 1949, Ex. Sess. ch. 6 § 9(¶¶ 5 and 6); Laws, 1952, ch. 286, § 2(¶¶ 5-7); Laws, 1955, Ex. Sess. ch. 67 (¶¶ 5-7); Laws, 1958, chs. 367, § 3(¶¶ 5-7), 368; Laws, 1962, ch. 449, § 1(¶¶ 6-8); Laws, 1963, 1st Ex. Sess. ch. 20, § 1(¶¶ 6-8); Laws, 1974, ch. 481, § 1; Laws, 1978, ch. 516, § 1; Laws, 1989, ch. 414, § 1, eff from and after passage (approved March 20, 1989).

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation, and whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

Cross References — State aid fund, see § 65-9-17.

§ 65-9-30. Accounts and utilization of funds.

(1) The State Aid Engineer shall maintain an accurate record of all federal aid secondary funds, federal "safer off-system" funds, and all other available

federal road funds allocated to the counties in accordance with the percentages set out in Section 65-9-3. He shall likewise maintain an accurate account of all state aid funds apportioned to the counties in accordance with the percentages and provisions set out in Section 27-65-75.

(2) The State Aid Engineer is hereby authorized to utilize state aid funds, and federal aid secondary funds allocated to the counties as provided for in accordance with Section 65-9-29, and federal "safer off-system" funds, and/or any other available federal road funds allocated to Mississippi and to be expended on county roads, and allocated to the counties as provided for in accordance with Section 65-9-29, in such amounts as he deems necessary for an orderly and effective programming of all funds available to the counties, including an interchange of one (1) type of funds for another type of funds when necessary; provided, however, that each county shall receive, not less than annually, its pro rata share of the combined funds so allocated; and further provided that the authority of the county boards of supervisors to otherwise adopt construction programs is in no way circumvented.

SOURCES: Laws, 1974, ch. 481, § 2; Laws, 1978, ch. 516, § 2, eff from and after passage (approved April 21, 1978).

§ 65-9-31. Qualifications of contractors.

All work done under the provisions of Sections 19-9-51 through 19-9-77, Mississippi Code of 1972, shall be done by contractors who qualify under the provisions of Sections 31-3-1 through 31-3-23, Mississippi Code of 1972, except with the consent of the State Aid Road Engineer.

SOURCES: Codes, 1942, § 2926-65; Laws, 1962, ch. 255, § 15, eff from and after passage (approved June 1, 1962).

Editor's Note — Sections 19-9-51 through 19-9-77, referred to in this section were repealed by Laws, 1985, ch. 477, § 20, effective from and after April 8, 1985.

Cross References — State Aid Engineer, see § 65-9-9.

§ 65-9-33. Authorization to administer certain bridge replacement project in Lowndes County.

In addition to any authority granted to the Division of State Aid Road Construction in Chapter 9, Title 65, Mississippi Code of 1972, and notwithstanding any general prohibition contained therein with respect to the administration by the division of certain federal funds on designated state highways, the division is authorized and empowered to administer a project utilizing available federal funds to reconstruct that portion of designated Mississippi Highway 182 in Lowndes County, Mississippi, that spans the Tombigbee River on Federal Aid Urban Route Number 9539, jurisdiction for the maintenance of which is, on March 12, 1990, vested in Lowndes County pursuant to an agreement executed by the county, the State Highway Commission and the City of Columbus.

SOURCES: Laws, 1990, ch. 324, § 1, eff from and after passage (approved March 12, 1990).

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

CHAPTER 10

County Major Feeder Road System [Repealed]

Editor's Note — Former chapter 10 pertained to authorizing the designation and development of a major feeder road system in each county.

§§ 65-10-1 through 65-10-25. Repealed.

Repealed by Laws, 1994, ch. 557, § 9, eff from and after July 1, 1994.
§ 65-10-1. [En Laws, 1977, ch. 428, § 1]
§ 65-10-3. [En Laws, 1977, ch. 428, § 2; Am Laws, 1978, ch. 516, § 4]
§ 65-10-5. [En Laws, 1977, ch. 428, § 3]
§ 65-10-7. [En Laws, 1977, ch. 428, § 4; 1978, ch. 516, § 5]
§ 65-10-9. [En Laws, 1977, ch. 428, § 5; 1978, ch. 516, § 6]
§ 65-10-11. [En Laws, 1977, ch. 428, § 6; 1978, ch. 516, § 7]
§ 65-10-13. [En Laws, 1977, ch. 428, § 7]
§ 65-10-15. [En Laws, 1977, ch. 428, § 8]
§ 65-10-17. [En Laws, 1977, ch. 428, § 9]
§ 65-10-19. [En Laws, 1977, ch. 428, § 10]
§ 65-10-21. [En Laws, 1977, ch. 428, § 11]
§ 65-10-23. [En Laws, 1977, ch. 428, § 12]
§ 65-10-25. [En Laws, 1977, ch. 428, § 13]

Editor's Note — Former §§ 65-10-1 through 65-10-25 pertained to the County Major Feeder Road System.

Former § 65-10-1 was entitled: Short title.

Former § 65-10-3 was entitled: "Major feeder roads" defined.

Former § 65-10-5 was entitled: Designation by counties of major feeder roads.

Former § 65-10-7 was entitled: Expenditure of funds for construction of major feeder roads.

Former § 65-10-9 was entitled: Powers and duties of state aid engineer with regard to major feeder roads and funds therefor; annual report.

Former § 65-10-11 was entitled: State aid engineer to establish specific designs and standards for major feeder road construction; semi-annual county reports of costs.

Former § 65-10-13 was entitled: Counties to employ county engineer and to present plan for construction of major feeder road as condition to expenditure of funds.

Former § 65-10-15 was entitled: Acquisition of rights-of-way.

Former § 65-10-17 was entitled: Award of contracts for construction of major feeder road projects.

Former § 65-10-19 was entitled: Counties to have one year to qualify for share of funds; forfeiture for failure to qualify.

Former § 65-10-21 was entitled: Maintenance of roads.

Former § 65-10-23 was entitled: Establishment of policies relating to operation of roads.

Former § 65-10-25 was entitled: Use of funds for safety purposes.

CHAPTER 11

County Highway Aid

County Highway Aid Law of 1946 65-11-1
Rural Road and Bridge Construction Program 65-11-39
Farm-to-Market Projects 65-11-61

COUNTY HIGHWAY AID LAW OF 1946

Sec.
65-11-1. Title.
65-11-3. Definitions for County Highway Aid Law.
65-11-5. Purpose of County Highway Aid Law.
65-11-7. County federal aid highway system.
65-11-9. Apportionment of federal funds.
65-11-11. Allocation of funds to counties.
65-11-13. Order of projects.
65-11-15. Counties notified of amounts available.
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65-11-19. Proposed projects submitted by Highway Commission.
65-11-21. Surveys, plans, specifications, engineering.
65-11-23. Letting of contracts for county federal aid highway system.
65-11-25. Counties authorized to expend additional funds.
65-11-27. Refusal or failure of county to comply with law.
65-11-29. Moneys may be expended on state highways.
65-11-31. Agreements among counties.
65-11-33. Counties to furnish rights of way.
65-11-35. State Highway Fund.
65-11-37. Construction not governed by group priority.

§ 65-11-1. Title.

Sections 65-11-1 through 65-11-37 shall be known as the "County Highway Aid Law of 1946."

SOURCES: Codes, 1942, § 8328-01; Laws, 1946, ch. 187, § 1.

Editor's Note — The Federal Aid Highway Act of 1944, referenced throughout this chapter, was repealed by Act of August 27, 1958, 72 Stat. 885, 919, Pub. L. 85-767, § 2,(28).

Cross References — Duty of the State Transportation Commission to have the State Department of Transportation carry out contracts and agreements under the County Highway Aid Law of 1946, see § 65-1-59.

State aid roads in counties, see § 65-9-1 et seq.

Federal-aid secondary system roads, see § 65-9-29.

§ 65-11-3. Definitions for County Highway Aid Law.

When used in Sections 65-11-1 through 65-11-37, unless the context indicates otherwise:

(a) The term "construction" means the supervising, inspection, actual building, and all expenses incidental to the construction or reconstruction of a highway, including locating, surveying, mapping, costs of right of way, and elimination of hazards of railway grade crossings.

(b) The term "county highways" shall include all county roads now under the jurisdiction of or being maintained by the board of supervisors of any county, not including roads on the state maintained highway system, but including streets inside municipalities or urban areas of less than five thousand inhabitants according to the latest available federal census, and specifically including all "secondary and feeder roads" as defined by the Federal Aid Highway Act of 1944 [58 U. S. Stat. 838, ch. 626].

SOURCES: Codes, 1942, § 8328-02; Laws, 1946, ch. 187, § 2.

Editor's Note — The Federal Aid Highway Act of 1944, referred to in this section, was repealed by Act of August 27, 1958, 72 Stat. 885, 919, Pub. L. 85-767, § 2(28). For present provisions relating to federal aid highways, see 23 U.S.C.S. §§ 101 et seq.

§ 65-11-5. Purpose of County Highway Aid Law.

It being recognized that county highways generally have deteriorated to a considerable extent during the past several years, and it being further recognized that the selection, construction, and improvement of a system of all-weather rural secondary, feeder, or farm-to-market roads is a matter of primary state-wide concern, it is hereby declared to be the purpose of Sections 65-11-1 through 65-11-37 to provide for a more comprehensive rural-road program through cooperation between the federal government, the state highway commission of Mississippi, and the county boards of supervisors; and it is further the purpose and intent of said sections to provide a means, manner, and funds whereby the counties of this state will be enabled to participate in the federal aid program, and will be enabled to participate in and avail themselves of the funds apportioned to the State of Mississippi for the construction and improvement of secondary and feeder roads, including farm-to-market roads, rural mail routes, and public school bus routes, under the terms of the Federal Aid Highway Act of 1944 [58 U. S. Stat. 838, ch. 626]. It is hereby declared to be the intent and purpose of the cited sections that, insofar as permissible under federal laws, rules, and regulations, not less than fifty per cent (50%) of the funds apportioned to Mississippi for secondary and feeder roads under the terms of subsection (b), section 3, of the Federal Aid Highway Act of 1944 [58 U. S. Stat. 838, ch. 626] should be expended for the construction and improvement of county highways as defined in said sections.

SOURCES: Codes, 1942, § 8328-03; Laws, 1946, ch. 187, § 3.

Editor's Note — The Federal Aid Highway Act of 1944, referred to in this section, was repealed by Act of August 27, 1958, 72 Stat. 885, 919, Pub. L. 85-767, § 2(28). For present provisions relating to federal aid highways, see 23 U.S.C.S. §§ 101 et seq.

Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 65-11-7. County federal aid highway system.

There is hereby created a system of county federal aid highways, for the purposes of Sections 65-11-1 through 65-11-37, and the county highways which shall comprise and constitute such system shall be selected jointly by the boards of supervisors of the various counties and the State Highway Commission of Mississippi, as same may be supplemented from time to time. Projects for the construction and improvement of such county highways shall likewise be selected jointly by the several boards of supervisors and the State Highway Commission, provided however, that in all cases where such system and projects thereon have been heretofore selected and agreed upon by the several boards of supervisors and the State Highway Commission as required by the Federal Aid Highway Act of 1944 [58 U. S. Stat. 838, ch. 626], the highways thereby selected shall constitute the roads in the affected counties which shall be a part of the county federal aid highway system, and such selections and agreements are hereby ratified and approved.

SOURCES: Codes, 1942, § 8328-04; Laws, 1946, ch. 187, § 4.

Editor's Note — The Federal Aid Highway Act of 1944, referred to in this section, was repealed by Act of August 27, 1958, 72 Stat. 885, 919, Pub. L. 85-767, § 2(28). For present provisions relating to federal aid highways, see 23 U.S.C.S. §§ 101 et seq.

Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

Cross References — Allocation of federal-aid secondary funds, see § 65-9-29.

§ 65-11-9. Apportionment of federal funds.

The State Highway Commission shall determine what proportion of the funds allotted to the State of Mississippi for the improvement of secondary and feeder roads under subsection (b), Section 3, of the Federal Aid Highway Act of 1944 [53 U. S. Stat. 838, ch. 626], shall be expended upon the improvement of highways on the county federal aid highway system; however, not less than fifty percent (50%) of the amount so apportioned to Mississippi under said act shall be apportioned for expenditure among the counties for the improvement of roads on the county federal aid highway system; if the amount apportioned by the state to the state highway fund to carry out the purposes of Sections 65-11-1 through 65-11-37 should be less than fifty percent (50%) of the amount apportioned to Mississippi for secondary and feeder roads under said act, then the amount of federal funds apportioned to the counties for the improvement of roads on the county federal aid highway system may be less than fifty percent (50%) of such federal funds, but shall not be less than the amount of such state appropriation.

SOURCES: Codes, 1942, § 8328-05; Laws, 1946, ch. 187, § 5.

Editor's Note — The Federal Aid Highway Act of 1944, referred to in this section, was repealed by Act of August 27, 1958, 72 Stat. 885, 919, Pub. L. 85-767, § 2(28). For present provisions relating to federal aid highways, see 23 U.S.C.S. §§ 101 et seq.

Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

Cross References — Powers and duties of the highway commission, generally, see § 65-1-8.

§ 65-11-11. Allocation of funds to counties.

The amount of federal funds made available to the State of Mississippi for secondary and feeder roads under the Federal Aid Highway Act of 1944 [58 U. S. Stat. 838, ch. 626] which is allotted to the counties as provided in Section 65-11-9, shall be apportioned among the counties of this state by the State Highway Commission in the following manner: one third in the ratio which the area of each county bears to the total area of the state; one third in the ratio which the rural population of each county bears to the total rural population of the state, as shown by the federal census of 1940; and one third in the ratio which the mileage of rural delivery and star routes in each county bears to the total mileage of rural delivery and star routes in the state. The amount of federal funds so apportioned to each county shall be matched by state funds apportioned to the State Highway Fund to carry out the purposes of Sections 65-11-1 through 65-11-37 as hereinafter provided; in the event the amount so appropriated for such State Highway Fund is insufficient to entirely match the federal funds allotted to county highways, then the amount of such fund shall be apportioned among the counties in the same manner as herein provided. "Rural population" and "rural delivery" routes as used in this section shall have the same meaning ascribed to them in the Federal Aid Highway Act of 1944 [58 U. S. Stat. 838, ch. 626].

SOURCES: Codes, 1942, § 8328-06; Laws, 1946, ch. 187, § 6.

Editor's Note — The Federal Aid Highway Act of 1944, referred to in this section, was repealed by Act of August 27, 1958, 72 Stat. 885, 919, Pub. L. 85-767, § 2(28). For present provisions relating to federal aid highways, see 23 U.S.C.S. §§ 101 et seq.

Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 65-11-13. Order of projects.

The projects upon such county federal aid highway system shall be selected jointly by the several boards of supervisors and the State Highway Commission in conformity with the applicable laws, rules, and regulations of the federal government and the public roads administration, of the federal works agency, or any other authorized agency of the federal government. The order of the construction and completion of such projects shall likewise be determined jointly by the several boards of supervisors and the State Highway Commission in conformity with such laws, rules, and regulations; the State

Highway Commission shall first call upon the several boards of supervisors to select and recommend a series of projects in the respective counties in the order in which, in the opinion of the board or a majority thereof, the projects should be constructed. Such selections and recommendations shall be examined and analyzed by the State Highway Commission and, if found to be proper and correct based on the relative use and importance of such roads, shall be approved by the State Highway Commission.

SOURCES: Codes, 1942, § 8328-07; Laws, 1946, ch. 187, § 7.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 65-11-15. Counties notified of amounts available.

The State Highway Commission shall notify the board of supervisors of each county of the amount of money to be available for expenditure in such county from said federal apportionment, and of the amount of money available from the appropriation made to the State Highway Fund as the state's share of the federal aid program on secondary and feeder roads. Within three months after the receipt of such notice, the board of supervisors of each county shall submit to the State Highway Commission a description of the recommended projects on county highways in such county which are approved by the county and recommended for selection and designation for participation in federal aid under the Federal Aid Highway Act of 1944 [58 U. S. Stat. 838, ch. 626]. In the selection of such projects and in the recommendation of the order of their improvement, the boards of supervisors shall select projects which will be of the greatest benefit to the county as a whole, judged from the standpoint of relative use and importance, without regard to district or beat lines, insofar as same is consistent with the rules and regulations of the public roads administration of the federal works agency. All such projects and the order of their inauguration shall be subject to the approval of the State Highway Commission as provided in Section 65-11-13.

SOURCES: Codes, 1942, § 8328-08; Laws, 1946, ch. 187, § 8.

Editor's Note — The Federal Aid Highway Act of 1944, referred to in this section, was repealed by Act of August 27, 1958, 72 Stat. 885, 919, Pub. L. 85-767, § 2(28). For present provisions relating to federal aid highways, see 23 U.S.C.S. §§ 101 et seq.

Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 65-11-17. Contracts and agreements.

The board of supervisors of the several counties and the State Highway Commission are hereby authorized and directed to enter into such contracts and cooperative agreements with each other and with any appropriate federal agency that may be necessary to carry out the purposes of Sections 65-11-1 through 65-11-37 and that may be necessary to enable the state and counties to participate in and avail themselves of any funds apportioned to the state under the Federal Aid Highway Act of 1944 [58 U. S. Stat. 838, ch. 626]. The boards of supervisors and the State Highway Commission are further authorized and directed to do any and all other things that may be necessary to carry out the purposes of said sections, within their respective jurisdictions. It is hereby expressly declared that nothing contained in the cited sections shall be deemed to convert any highway into a state highway or to place same on the state highway system unless and until such highway is placed on the state system in the manner prescribed by law; nor shall any action or step taken under the provisions of such sections (including the improvement or construction of any county highway) convert any highway into a state highway.

SOURCES: Codes, 1942, § 8328-09; Laws, 1946, ch. 187, § 9.

Editor's Note — The Federal Aid Highway Act of 1944, referred to in this section, was repealed by Act of August 27, 1958, 72 Stat. 885, 919, Pub. L. 85-767, § 2(28). For present provisions relating to federal aid highways, see 23 U.S.C.S. §§ 101 et seq.

Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

Cross References — Letting of contracts, see § 65-11-23.

§ 65-11-19. Proposed projects submitted by Highway Commission.

After the selection and determination of the projects in the manner prescribed in Sections 65-11-1 through 65-11-37, the State Highway Commission shall prepare and submit to the commissioner of public roads of the public roads administration for approval detailed programs of such proposed projects for the utilization of any apportionment of funds made to the state under the provisions of subsection (b) of Section 3 of the Federal Aid Highway Act of 1944 [58 U. S. Stat. 838, ch. 626], same to be done in the manner and in the form required by the applicable federal laws, rules, and regulations.

SOURCES: Codes, 1942, § 8328-10; Laws, 1946, ch. 187, § 10.

Editor's Note — The Federal Aid Highway Act of 1944, referred to in this section, was repealed by Act of August 27, 1958, 72 Stat. 885, 919, Pub. L. 85-767, § 2(28). For present provisions relating to federal aid highways, see 23 U.S.C.S. §§ 101 et seq.

Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 65-11-21. Surveys, plans, specifications, engineering.

The State Highway Commission is hereby authorized and directed to prepare all necessary surveys, plans, specifications, and estimates for all projects upon county highways, to furnish engineering and technical assistance for the preparation of such surveys, plans, specifications, and estimates, and to supervise the construction of all projects upon county highways under the provisions of Sections 65-11-1 through 65-11-37; the cost and expense of such surveys, plans, specifications, estimates, and the supervision of projects shall be paid from the federal aid or state appropriated funds allocated for such project, or from any other funds that the county might have available for such purpose.

SOURCES: Codes, 1942, § 8328-11; Laws, 1946, ch. 187, § 11.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 65-11-23. Letting of contracts for county federal aid highway system.

All contracts for the construction of projects under the terms and provisions of Sections 65-11-1 through 65-11-37 shall be let and awarded by the state highway commission in the manner and method now provided by law for the awarding of contracts for the improvement and construction of highways on the state highway system; and the cost and expense of the letting of such contracts shall be paid from the federal aid or state appropriated funds allocated for such project, or from any other funds that the county might have available for such purpose.

SOURCES: Codes, 1942, § 8328-12; Laws, 1946, ch. 187, § 12.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

Cross References — Awarding of contracts by Mississippi Transportation Commission, see § 65-1-85.

§ 65-11-25. Counties authorized to expend additional funds.

If the amount apportioned to any county from federal aid funds for the purposes mentioned above shall exceed the amount made available to such county from state appropriated funds, then the board of supervisors of such county is hereby authorized and empowered, in its discretion, to use and expend any county road and bridge funds, or any funds available in the general fund of such county, to increase or enlarge the county highway construction program in such county and to match any federal aid funds not matched by state appropriated funds. All such additional funds shall be remitted and turned over by the board of supervisors to the State Treasurer to be deposited in the state highway fund and to be used exclusively in said county on projects on county highways approved by the board of supervisors, the State Highway Commission, and the public roads administration, it being the intention of this section to authorize and empower the board of supervisors of any county to supplement the funds provided for the construction or improvement of projects on secondary or feeder roads in said county out of any funds which the county might have available at the time. For the purpose of providing such supplemental or additional funds, the board of supervisors of any county is hereby authorized and empowered, in its discretion, to issue the road or road and bridge bonds of such county in any lawful amount, said bonds to be issued in all respects in the manner and method, and subject to the restrictions and conditions, now provided by law for the issuance of county road or road and bridge bonds, and shall be payable from the same sources of revenue.

SOURCES: Codes, 1942, § 8328-13; Laws, 1946, ch. 187, § 13.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 65-11-27. Refusal or failure of county to comply with law.

If the board of supervisors of any county notify the State Highway Commission that it refuses to accept the benefits of Sections 65-11-1 through 65-11-37 on the terms and conditions specified therein and in the federal laws, rules, and regulations, or if any county shall fail to submit a description of recommended projects as required by Section 65-11-15, the amount of the appropriation made by the state for the purposes hereof and the amount available from federal aid funds which has been apportioned to such county may be expended in the discretion of the State Highway Commission on any other highway, state or county, on the approved system of secondary and feeder roads within or without such county; however, the Highway Commission may grant an additional three months for the filing of the description of projects, provided such extension shall not cause a lapse of federal aid funds apportioned to this state by reason of the expiration of a federal fiscal year.

SOURCES: Codes, 1942, § 8328-14; Laws, 1946, ch. 187, § 14.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 65-11-29. Moneys may be expended on state highways.

Any county may, by resolution of its board of supervisors, request that all or any portion of the moneys available for expenditure in such county from federal aid and state appropriated funds be expended on any state highway in such county which is on the approved system of secondary and feeder roads. In that event, the State Highway Commission may expend such money on such state highway in accordance with the provisions of the Federal Aid Highway Act of 1944 [58 U. S. Stat. 838, ch. 626] and the rules and regulations promulgated pursuant thereto, notwithstanding any provision of Sections 65-11-1 through 65-11-37 to the contrary.

SOURCES: Codes, 1942, § 8328-15; Laws, 1946, ch. 187, § 15.

Editor's Note — The Federal Aid Highway Act of 1944, referred to in this section, was repealed by Act of August 27, 1958, 72 Stat. 885, 919, Pub. L. 85-767, § 2(28). For present provisions relating to federal aid highways, see 23 U.S.C.S. §§ 101 et seq.

Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 65-11-31. Agreements among counties.

Any county, acting through its board of supervisors, may enter into an agreement with any other county or counties, or with any road or highway district, or any other public agency for the expenditure of a part or all of the moneys available pursuant to Sections 65-11-1 through 65-11-37 for expenditure in such county or any public highway outside the boundaries of such county, if such highway is eligible for federal aid under subsection (b) of Section 3 of the Federal Aid Highway Act of 1944 [58 U. S. Stat. 838, ch. 626]. In that event, the state highway commission is authorized and empowered to expend such moneys in accordance with such agreement.

SOURCES: Codes, 1942, § 8328-16; Laws, 1946, ch. 187, § 16.

Editor's Note — The Federal Aid Highway Act of 1944, referred to in this section, was repealed by Act of August 27, 1958, 72 Stat. 885, 919, Pub. L. 85-767, § 2(28). For present provisions relating to federal aid highways, see 23 U.S.C.S. §§ 101 et seq.

Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

Cross References — Working of roads in adjoining counties, see § 65-7-77.

§ 65-11-33. Counties to furnish rights of way.

All rights of way for any county highway to be constructed or improved under the provisions of Sections 65-11-1 through 65-11-37 shall be obtained, secured, and paid for by the county in which such highway is located.

SOURCES: Codes, 1942, § 8328-17; Laws, 1946, ch. 187, § 17.

§ 65-11-35. State Highway Fund.

All moneys that shall be appropriated for the purposes of Sections 65-11-1 through 65-11-37 shall be paid into the State Highway Fund, as shall all other moneys that shall be paid for said purposes as a result of any other law, state or federal, and all moneys which shall accrue from any other source for such purposes. All expenditures of state funds contemplated by the aforesaid sections shall be made from such fund, and such moneys shall be paid out by the State Highway Commission, acting through its director, in the manner and method now provided by law.

SOURCES: Codes, 1942, § 8328-18; Laws, 1946, ch. 187, § 18.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

Cross References — Highway funds, generally, see §§ 65-1-111 to 65-1-115.

§ 65-11-37. Construction not governed by group priority.

All highways constructed under the provisions of Sections 65-11-1 through 65-11-37, including those constructed under the provisions of Sections 65-11-27 through 65-11-31, may be constructed by the State Highway Commission without regard to any group priority of construction which is now or may hereafter be provided by law.

SOURCES: Codes, 1942, § 8328-19; Laws, 1946, ch. 187, § 19.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

RURAL ROAD AND BRIDGE CONSTRUCTION PROGRAM

SEC.
65-11-39. Definitions for rural road and bridge construction program.
65-11-41. Purpose of rural road and bridge construction program.
65-11-43. Apportionment of funds between counties.
65-11-45. Amounts available.
65-11-47. Selection of roads and bridges.
65-11-49. Engineer to supervise construction.
65-11-51. Letting of contracts for rural road and bridge construction.
65-11-53. Authority to expend any available funds.
65-11-55. Funds may be used for state highways.
65-11-57. Rules and regulations.
65-11-59. Limitation on expenditures.

§ 65-11-39. Definitions for rural road and bridge construction program.

When used in Sections 65-11-39 through 65-11-59, unless the context indicates otherwise:

(a) The term "construction" shall mean the supervising, inspection, actual building, and all expenses incidental to the construction or reconstruction of a road or bridge, including locating, surveying, mapping, cost of right of way, and elimination of the hazards of railway grade crossings.

(b) The term "county roads" shall mean all county roads now under the jurisdiction of, or being maintained by, the board of supervisors of any county.

(c) The term "board of supervisors" shall mean the board of supervisors of each county in the State of Mississippi.

SOURCES: Codes, 1942, § 8328-21; Laws, 1946, ch. 219, § 1.

ATTORNEY GENERAL OPINIONS

The opinion Spencer, April 5, 1996, AG Op.96-0154, is no longer applicable to the question of reduction of a charge of DUI due to the amendment of Section 63-11-39. Sorrell, Nov. 10, 2006, A.G. Op. 06-0568.

§ 65-11-41. Purpose of rural road and bridge construction program.

It being recognized that county roads and bridges of the various counties of the state have deteriorated to a considerable extent during the past several years, and it being further recognized that the selection, construction, and improvement of a system of all-weather county roads and bridges is a matter of primary state-wide concern, it is hereby declared to be the purpose of Sections 65-11-39 through 65-11-59 to provide for a county rural road and bridge construction program in addition and supplemental to that provided by cooperation with the Federal Highway Act of 1944, in addition to that provided by Sections 65-11-1 through 65-11-37.

SOURCES: Codes, 1942, § 8328-22; Laws, 1946, ch. 219, § 2.

Editor's Note — The Federal Aid Highway Act of 1944, referred to in this section, was repealed by Act of August 27, 1958, 72 Stat. 885, 919, Pub. L. 85-767, § 2(28). For present provisions relating to federal aid highways, see 23 U.S.C.S. §§ 101 et seq.

JUDICIAL DECISIONS

1. In general.

The primary purpose of this section is the repair and improvement of roads and bridges of the county and not to purchase machinery from the counties. Craig v. Wheat, 212 Miss. 258, 54 So. 2d 383 (1951).

The supervisors are expressly authorized and empowered to construct, repair and improve the roads and in the absence of some express prohibition, the statute logically confers authority and power to do all incidental acts necessary to accomplish the ultimate objects. Craig v. Wheat, 212 Miss. 258, 54 So. 2d 383 (1951).

§ 65-11-43. Apportionment of funds between counties.

The funds hereinafter appropriated for the purpose of Sections 65-11-39 through 65-11-59 shall be paid by the State Treasurer out of any money in the state treasury not otherwise appropriated on warrants issued by the State Auditor of Public Accounts, and the said auditor shall issue his warrants upon requisition signed by the chancery clerk of each county for the sum appropriated such county. Each county shall receive nine one-thousandths (.009) of the total appropriation made to carry out the provisions of said sections, and the balance of said appropriation shall be apportioned by the state auditor among all the counties according to the following formula: one third in the ratio which the area of each county bears to the total area of the state; one third in the ratio which the rural population of each county bears to the total rural population of the state, as shown by the federal census of 1940; and one third in the ratio which the mileage of rural delivery and star routes in each county bears to the total mileage of rural delivery and star routes in the state.

SOURCES: Codes, 1942, § 8328-23; Laws, 1946, ch. 219, § 3.

Editor's Note — Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor," and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer.

Section 27-104-6 provides that whenever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration."

Cross References — Allocation of funds to counties under county highway aid law, see § 65-11-11.

§ 65-11-45. Amounts available.

[With regard to any county which is exempt from the provisions of Section 19-2-3, this section shall read as follows:]

The State Fiscal Management Board shall notify the board of supervisors of each county of the amount of money to be available for expenditure in such county from any appropriation made by the state for the purpose of Sections 65-11-39 through 65-11-59. The board of supervisors, upon the receipt of such notice, shall divide the amount available for such county among the five (5) supervisors districts. All funds which may be appropriated for the purpose of said sections shall be expended for materials and labor in construction and improvement of county roads and bridges selected by the board of supervisors of each county. However, the board of supervisors shall first select for construction and reconstruction all school bus routes and, next, rural mail routes.

[With regard to any county which is required to operate on a countywide system of road administration as described in Section 19-2-3, this section shall read as follows:]

The State Fiscal Management Board shall notify the board of supervisors of each county of the amount of money to be available for expenditure in such county from any appropriation made by the state for the purpose of Sections 65-11-39 through 65-11-59. The board of supervisors, upon the receipt of such notice, shall deposit the amount available for such county into the county road and bridge fund. All funds which may be appropriated for the purpose of said sections shall be expended for materials and labor in construction and improvement of county roads and bridges selected by the board of supervisors of each county. However, the board of supervisors shall first select for construction and reconstruction all school bus routes and, next, rural mail routes.

SOURCES: Codes, 1942, § 8328-24; Laws, 1946, ch. 219, § 4; Laws, 1988 Ex Sess, ch. 14, § 47, eff from and after October 1, 1989.

Editor's Note — Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor," and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer.

Section 27-104-6 provides that whenever the term "State Fiscal Officer " appears in any law it shall mean "Executive Director of the Department of Finance and Administration."

Section 27-104-1 provides that the term "Fiscal Management Board" shall mean the "Department of Finance and Administration."

§ 65-11-47. Selection of roads and bridges.

[With regard to any county which is exempt from the provisions of Section 19-2-3, this section shall read as follows:]

The board of supervisors of each county, at its next regular or special meeting after receipt of notice of the amount of money apportioned such county, shall spread upon the minutes of such meeting the roads and bridges selected by it to be constructed or improved in its respective district or beat. In the selection of such projects the boards of supervisors shall select roads and bridges which will be of the greatest benefit to the district or beat as a whole, judged from the standpoint of relative use and importance. However, if the board of supervisors selects a portion of the federal aid farm-to-market system, as set up in Sections 65-11-1 through 65-11-37, then the road shall be built up to the specifications for the federal aid farm-to-market system, and the funds made available under Sections 65-11-39 through 65-11-59 shall be expended under the provisions of the former sections. No reference is intended to any order of the board of supervisors heretofore made with reference to farm-to-market roads in the respective counties.

[With regard to any county which is required to operate on a countywide system of road administration as described in Section 19-2-3, this section shall read as follows:]

The board of supervisors of each county, at its next regular or special meeting after receipt of notice of the amount of money apportioned such county, shall spread upon the minutes of such meeting the roads and bridges selected by it to be constructed or improved. In the selection of such projects the boards of supervisors shall select roads and bridges which will be of the greatest benefit to the county as a whole, judged from the standpoint of relative use and importance. However, if the board of supervisors selects a portion of the federal aid farm-to-market system, as set up in Sections 65-11-1 through 65-11-37, then the road shall be built up to the specifications for the federal aid farm-to-market system, and the funds made available under Sections 65-11-39 through 65-11-59 shall be expended under the provisions of the former sections. No reference is intended to any order of the board of supervisors heretofore made with reference to farm-to-market roads in the respective counties.

SOURCES: Codes, 1942, § 8328-25; Laws, 1946, ch. 219, § 5; Laws, 1988 Ex Sess, ch. 14, § 48, eff from and after October 1, 1989.

§ 65-11-49. Engineer to supervise construction.

The board of supervisors of counties who do not have an engineer employed are hereby authorized and empowered to employ a competent engineer to prepare all necessary surveys, plans, and specifications and to supervise the construction and repairing of roads and bridges in their respective counties. The salary of same shall be paid from the common fund of said county.

SOURCES: Codes, 1942, § 8328-26; Laws, 1946, ch. 219, § 6.

Cross References — Plans and specifications for road and bridge work, see § 65-7-105.

§ 65-11-51. Letting of contracts for rural road and bridge construction.

[With regard to any county which is exempt from the provisions of Section 19-2-3, this section shall read as follows:]

All contracts for the construction of projects under the terms and provisions of Sections 65-11-39 through 65-11-59 shall be let and awarded by the board of supervisors in the manner and method now provided by law for the awarding of contracts for the improvement and construction of county roads and bridges. The cost and expense of the letting of such contracts shall be paid by the county, or from any funds provided for such purpose. In counties having sufficient equipment and labor, the boards of supervisors may build the roads and bridges in their respective districts or beats without the letting of contracts, and may pay for labor and material therefor out of any funds appropriated by the Legislature or otherwise made available to carry out the provisions of the aforesaid sections.

[With regard to any county which is required to operate on a countywide system of road administration as described in Section 19-2-3, this section shall read as follows:]

All contracts for the construction of projects under the terms and provisions of Sections 65-11-39 through 65-11-59 shall be let and awarded by the board of supervisors in the manner and method now provided by law for the awarding of contracts for the improvement and construction of county roads and bridges. The cost and expense of the letting of such contracts shall be paid by the county, or from any funds provided for such purpose. In counties having sufficient equipment and labor, the boards of supervisors may build the roads and bridges without the letting of contracts, and may pay for labor and material therefor out of any funds appropriated by the Legislature or otherwise made available to carry out the provisions of the aforesaid sections.

SOURCES: Codes, 1942, § 8328-27; Laws, 1946, ch. 219, § 7; Laws, 1988 Ex Sess, ch. 14, § 49, eff from and after October 1, 1989.

JUDICIAL DECISIONS

1. In general.

Where payments of accounts are not applied to an illegal object but to an object authorized by law, no personal liability exists against the supervisors and their surety even though they did not comply with the statutory requirement as to the matter of letting the contract for the purchase of gravel. Craig v. Wheat, 212 Miss. 258, 54 So. 2d 383 (1951).

§ 65-11-53. Authority to expend any available funds.

The boards of supervisors of the several counties are hereby authorized and empowered, in their discretion, to use and expend any county road or bridge funds available to supplement and to be used in conjunction with state appropriated funds in the construction of roads and bridges and to secure necessary rights of way.

SOURCES: Codes, 1942, § 8328-28; Laws, 1946, ch. 219, § 8.

§ 65-11-55. Funds may be used for state highways.

Any county may, by resolution of its board of supervisors, request that all or any portion of the moneys available for expenditure in such county be expended on any secondary highway in such county or on the state highway system, as may be agreed upon by the board of supervisors of such county and the state highway department.

SOURCES: Codes, 1942, § 8328-29; Laws, 1946, ch. 219, § 9.

§ 65-11-57. Rules and regulations.

The board of supervisors is hereby authorized and empowered to adopt and promulgate all necessary rules and regulations to carry out the provisions and purposes of Sections 65-11-39 through 65-11-59.

SOURCES: Codes, 1942, § 8328-30; Laws, 1946, ch. 219, § 10.

§ 65-11-59. Limitation on expenditures.

The board of supervisors shall not expend any of said funds for machinery or other equipment or tools.

SOURCES: Codes, 1942, § 8328-31; Laws, 1946, ch. 219, § 11.

JUDICIAL DECISIONS

1. In general.

The supervisors had the power to pay for the hire of drag lines, trucks, etc., as shown by the accounts presented by the contractor to the supervisors, although the clerk was mistaken in his request that they be broken down rather than made out for the purchase price of gravel placed on the roads. Craig v. Wheat, 212 Miss. 258, 54 So. 2d 383 (1951).

This section, which prohibits the board of supervisors from expending any funds for machinery or other equipment or tools, applies only to using the funds in the outright purchase of these articles. Craig v. Wheat, 212 Miss. 258, 54 So. 2d 383 (1951).

FARM-TO-MARKET PROJECTS

Sec.
65-11-61. Repair of roadbed, surfacing, and bridges damaged by floods.

§ 65-11-61. Repair of roadbed, surfacing, and bridges damaged by floods.

The purpose of this section is to authorize the Highway Commission to repair roadbed, surfacing, and bridges being constructed as farm-to-market projects under the provisions of the County Highway Aid Law of 1946, Sections 65-11-1 through 65-11-37. Said roadbed, surfacing, and bridges having been damaged by excessive floods before final acceptance of the projects and no provision being made by law for their repair, this section is intended as supplemental to said 1946 law.

The Mississippi State Highway Commission is authorized, in its discretion, to repair any roadbeds which have been damaged by floods on roads built under the provisions of the cited sections, out of any monies on hand from the appropriation to carry out the provisions of said sections to the credit of the county in which said road is situated.

SOURCES: Codes, 1942, § 8328-32; Laws, 1950, ch. 390, §§ 1, 2.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

CHAPTER 13

Highway and Street Revenue Bond Authority

Sec.
65-13-1. Title.
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65-13-41. Bonds as legal investments for public funds.
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65-13-47. Bond interest tax exempt.
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65-13-55. Authority's procedures to conform to constitutions.

§ 65-13-1. Title.

This chapter shall be known as the "Highway and Street Revenue Bond Authority Law."

SOURCES: Codes, 1942, § 8368-02; Laws, 1966, ch. 603, § 2, eff from and after passage (approved June 17, 1966).

Cross References — Municipal bonds for highway purposes, see §§ 21-33-301 et seq.

§ 65-13-3. Purpose.

The purpose of this chapter is to provide for the construction, operation, and maintenance of highways, streets, culverts, and bridges in order to furnish access from interstate, primary, or secondary highways to reservoirs, parks, residential or industrial areas, and similar facilities and to provide a method for the financing thereof.

SOURCES: Codes, 1942, § 8368-01; Laws, 1966, ch. 603, § 1, eff from and after passage (approved June 17, 1966).

§ 65-13-5. Legislative determination.

It is hereby declared, as a matter of legislative determination, that the construction, operation, and maintenance of highways and streets to serve areas of high traffic density will promote the economic development of the state.

SOURCES: Codes, 1942, § 8368-03; Laws, 1966, ch. 603, § 3, eff from and after passage (approved June 17, 1966).

§ 65-13-7. Definitions.

Whenever used in this chapter, unless a different meaning clearly appears in the context, the following terms, whether used in the singular or plural, shall be given the following respective definitions:

(a) "Highway and street revenue bond authority" or "authority" means an instrumentality through which certain municipalities intend to accomplish the purposes of this chapter.

(b) "Trustee" shall refer to the board of trustees of the highway and street revenue bond authority created by this chapter.

(c) "Governing body" shall refer to the board of supervisors of a county, mayor and board of aldermen of towns and cities, directors of districts, commissioners and other governing bodies of any municipal government or agency located in the State of Mississippi.

(d) "Highways and streets" shall be deemed to include roadways, pavements, culverts, bridges, driveways, and also all property, rights, easements, and franchises relating thereto and deemed necessary or convenient for the operation thereof.

(e) The term "cost" shall include the cost of all construction, maintenance, and operation of facilities constructed; and shall embrace the cost of all land, property, rights, easements, and franchises acquired, which are deemed necessary for such construction; financing charges; interest prior to and during construction and for eighteen months after acceptance of the completed work by the highway and street revenue bond authority; cost of traffic estimates, engineering and legal expenses, plans, specifications, surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expense; and such other expenses as may be necessary or incident to the financing herein authorized and the construction and the placing of the completed facility in operation.

(f) "Develop" shall refer to the initiation, creation, studying, planning, purchasing, financing, constructing, building, surveying, platting, and otherwise bringing into being facilities planned and designed to serve the purposes of this chapter.

(g) "Project" shall mean any section, part, phase, or other subdivision of the total work involved in the construction of highways and streets as outlined in this chapter.

(h) "Sealed bid procedure" shall refer to the procedure designated under Section 31-19-25 Mississippi Code of 1972, wherein the governing authority advertises for the sale of bonds, and as supplemented herein.

(i) "Revenues" shall mean all charges, rentals, tolls, rates, gifts, grants, moneys, volunteer assessments, and all other funds coming into the possession of the authority by virtue of the provisions of this chapter, except the proceeds from the sale of bonds issued hereunder. "Net revenues" shall mean the revenues after payment of costs and expenses of operation and maintenance of the project and related facilities.

SOURCES: Codes, 1942, §§ 8368-04, 8368-16; Laws, 1966, ch. 603, §§ 4, 16, eff from and after passage (approved June 17, 1966).

§ 65-13-9. Certain governmental bodies empowered to create or join authority.

Any county which embraces more than five miles of the shoreline of any existing reservoir, the construction of which was financed by revenue bonds, and any town, city, or supervisors district within such county, and any agency of the state or state department is hereby authorized and empowered separately or jointly to create or join a highway and street revenue bond authority as outlined in Section 65-13-11.

SOURCES: Codes, 1942, § 8368-05; Laws, 1966, ch. 603, § 5, eff from and after passage (approved June 17, 1966).

§ 65-13-11. Petition for creation of authority.

A petition for the creation of a highway and street revenue bond authority may be submitted to the board of supervisors of the county in which the project or projects authorized by this chapter are to be developed. Such petition shall be signed by not less than twenty qualified electors residing within the county of the board to which the petition is submitted. Such petition shall include (1) a statement of the necessity for the service or services to be supplied by the proposed highway and street revenue bond authority, (2) the services to be provided by the authority, and (3) the limits of the facility to be constructed by the authority. Such petition shall be signed in person by the petitioners, with their respective residence addresses, and shall be accompanied by a sworn statement of the person or persons circulating the petition, who shall state under oath that he or they witnessed the signature of each petitioner, that each signature is the signature of the person it purports to be, and that, to the best of his or their knowledge, each petitioner was at the time of signing a resident of the county.

SOURCES: Codes, 1942, § 8368-06; Laws, 1966, ch. 603, § 6, eff from and after passage (approved June 17, 1966).

§ 65-13-13. Notice of public hearing on petition.

Upon the filing of a petition with the board of supervisors as outlined above, it shall be the duty of said board to fix a time and place for a public hearing upon the question of the public convenience and necessity for the creation of the proposed authority. The date fixed for such hearing shall be not more than thirty days after the filing of the petition, and the date of the hearing, the place at which it shall be held, and the purpose of the hearing shall be set forth in a notice to be signed by the clerk of the board of said county. Said notice shall be published in a newspaper having general circulation within such county once a week for at least three consecutive weeks prior to the date of such hearing. The first such publication shall be made not less than twenty-one days prior to the date of such hearing, and the last such publication shall be made not more than seven days prior to the date of such hearing.

SOURCES: Codes, 1942, § 8368-07; Laws, 1966, ch. 603, § 7, eff from and after passage (approved June 17, 1966).

Cross References — Finding of public convenience and necessity, see § 65-13-15.

§ 65-13-15. Finding of public convenience and necessity.

If the board of supervisors at the hearing provided in Section 65-13-13 finds that (1) the public convenience and necessity require the creation of the authority, and (2) the creation of the authority is sound and desirable, the board of supervisors shall adopt a resolution making the aforesaid findings and declaring its intention to create the authority in its respective county on the specified date.

SOURCES: Codes, 1942, § 8368-08; Laws, 1966, ch. 603, § 8, eff from and after passage (approved June 17, 1966).

Cross References — Appeals to circuit court, see § 65-13-23.

§ 65-13-17. Publication of resolution declaring intent to create authority.

A certified copy of the resolution so adopted shall be published in a newspaper having a general circulation within the county once a week for at least three consecutive weeks prior to the date specified in such resolution as the date upon which said board intends to create such authority. The first such publication shall be made not less than twenty-one days prior to the date thus specified, and the last such publication shall be made not more than seven days prior to such date.

SOURCES: Codes, 1942, § 8368-09; Laws, 1966, ch. 603, § 9, eff from and after passage (approved June 17, 1966).

Cross References — Resolution finding public convenience and necessity, see § 65-13-15.

§ 65-13-19. Protest petition and election.

If ten percent (10%) of the qualified electors residing in the supervisors district, or supervisors districts if the facility to be developed is located in more than one supervisors district, file a written petition with said boards of supervisors on or before the date specified aforesaid, protesting against the creation of the authority, the board shall call an election on the question of the creation of the authority. Such election shall be held and conducted by the election commissioners of the county as nearly as may be in accordance with the general laws governing elections. Such election commissioners shall determine which of the qualified electors of such county reside within said supervisors district, or districts, and only such qualified electors as reside within said supervisors district, or districts, shall be entitled to vote in such election. Notice of such election, setting forth the time, place or places, and purpose of such election shall be published by the clerk of the board of supervisors; and such notice shall be published for the time and manner provided for the publication of the aforesaid resolution of intention. The ballots to be prepared and used at said election shall be in substantially the following form:

For creation of the highway and street revenue bond authority ....( )
Against creation of the highway and street revenue bond authority ..( )

and voters shall vote by placing a cross mark (X) or a check mark (√) opposite their choice.

If no petition requiring an election be filed or if a majority of those voting at an election hereunder votes in favor of the creation of the authority, the board of supervisors shall adopt a resolution creating the authority as described in the aforesaid resolution of intention.

SOURCES: Codes, 1942, § 8368-10; Laws, 1966, ch. 603, § 10, eff from and after passage (approved June 17, 1966).

Cross References — Publication of resolution of intention, see § 65-13-17.
Appeals to circuit court, see § 65-13-23.

§ 65-13-21. Costs.

All costs incident to the publication of the aforesaid notices and all other costs incident to the public hearing and election hereunder shall be borne by the parties filing the petition; and the board or boards of supervisors, in its or their discretion, may require the execution by the parties filing the petition of a cost bond in an amount and with good sureties to guarantee the payment of such costs. However, the board of supervisors may, in its discretion, pay the costs of the hearing and election, or such portion as it deems proper, if it considers the proposal to be of sufficient public interest.

SOURCES: Codes, 1942, § 8368-10; Laws, 1966, ch. 603, § 10, eff from and after passage (approved June 17, 1966).

§ 65-13-23. Appeals to circuit court.

Any party having an interest in the subject matter and aggrieved or prejudiced by the findings and adjudication of the board of supervisors may appeal to the circuit court of his or her respective county in the manner provided by law for appeals from orders of the board of supervisors; if no such appeal be taken within a period of fifteen days from and after the date of the adoption of the resolution creating the authority, the creation of the highway and street revenue bond authority shall be final and conclusive and shall not thereafter be subject to attack in any court.

SOURCES: Codes, 1942, § 8368-11; Laws, 1966, ch. 603, § 11, eff from and after passage (approved June 17, 1966).

§ 65-13-25. Board of trustees.

All powers of the highway and street revenue bond authority shall be exercised by a board of trustees, to be composed as follows:

(a) Two members of the board of trustees shall be appointed by the board of supervisors. These two members shall be qualified electors who reside within the supervisors district in which the facility is located.

(b) One member of the board of trustees shall be appointed by the board of supervisors and shall be a qualified elector not a resident of the supervisors district in which is located the proposed facility.

(c) Any municipality joining the authority, either during organization or afterwards, shall appoint two members of the board of trustees who shall be qualified electors in the municipality appointing them.

(d) One of the members of the board of trustees appointed under (a) above and one of the members of the board of trustees appointed under (c) above shall be appointed for an initial term of five years, but all other appointments shall be for a term of four years, or until appropriate successors in office have been appointed and have accepted appointment.

(e) At any time the membership of a board of trustees composed as outlined herein is of an equal number, the trustees themselves shall select, from any part of the county, one member at large who shall have all the rights and privileges as any other member and who shall serve for a period of four years.

(f) Members of the board of trustees of the authority may succeed themselves.

(g) No member shall be appointed by the board of supervisors who is not a qualified elector and bona fide resident of the county.

SOURCES: Codes, 1942, §§ 8368-12, 8368-13; Laws, 1966, ch. 603, §§ 12, 13, eff from and after passage (approved June 17, 1966).

Cross References — Oath of trustees, see § 65-13-27.
Compensation of trustees, see § 65-13-29.

§ 65-13-27. Oath of trustees.

Each member of the board of trustees shall take and subscribe to the general oath of office, required by Section 268 of the Constitution of the State of Mississippi, before the chancery clerk that he will faithfully discharge the duties of the office, which oath shall be filed with the said clerk and by him preserved.

SOURCES: Codes, 1942, § 8368-13; Laws, 1966, ch. 603, § 13, eff from and after passage (approved June 17, 1966).

§ 65-13-29. Compensation of trustees.

The trustees shall each receive not more than Twenty Dollars ($20.00) per diem, and Ten Cents (10¢) per mile for distance traveled while actually performing the business of the authority. The compensation herein authorized shall apply for no more than fourteen days per member during any calendar year.

SOURCES: Codes, 1942, § 8368-13; Laws, 1966, ch. 603, § 13, eff from and after passage (approved June 17, 1966).

§ 65-13-31. Powers of the authority.

The highway and street revenue bond authority, through its trustees, is hereby empowered:

(a) To develop one or more projects under the authority provided by this chapter.

(b) To construct and maintain highways and streets, including roadways, drainageways, bases, pavements, culverts, bridges, driveways, turnouts, ramps, overpasses, underpasses, intersections, and all other facilities necessary to provide for safe and convenient use by automotive and truck traffic.

(c) To acquire and develop land or any interest in land or property; acquire, construct, improve, install, reconstruct, cause to be constructed, extend, expand, maintain, use, operate all facilities of any kind necessary or convenient for the purposes of this chapter.

(d) To make or cause to be made or to cooperate in making engineering surveys, feasibility studies, and cost-benefit estimates relating to the works contemplated by this chapter.

(e) To employ engineers, attorneys, and all agents and employees necessary to the exercising of the powers, rights, privileges, or functions conferred upon the authority by this chapter, and to properly finance, construct, operate, and maintain the project and the services it renders, and to pay reasonable compensation for such services.

(f) To acquire by condemnation easements for traffic thoroughfares or utility rights of way, subject to the specific recommendation and approval of the board of supervisors; but for no other purpose shall the right of condemnation be allowed.

(g) To apply for and accept government grants and loans, whether federal, state, or local, when such are available; to borrow from other federal, state and municipal agencies and from private persons or groups, including corporations.

(h) To make contracts and to execute instruments necessary to the exercise of the powers, rights, privileges, and functions conferred upon the authority by this chapter.

(i) To enter into contracts and agreements with any federal agencies, public agencies, or political subdivisions of any kind, including municipalities, corporations, districts, or others for any financing, construction, operation, or maintenance requirements.

(j) To fix and to revise from time to time tolls and other charges for transit over, or use of, the facility, and to charge and collect same; and to contract with any person, partnership, corporation, or association desiring to use its properties for any purpose to fix the terms, conditions, rates, and charges for such use. Such tolls shall be so fixed and adjusted, in respect of the aggregate of tolls from the project for which a single issue of bonds is issued, as to provide a fund sufficient with other revenues of the project, if any, to pay (1) the cost of maintaining, repairing, operating such project and collecting tolls, and (2) the bonds and the interest thereon as the same become due. Such tolls shall not be subject to supervision or regulation by any state commission, board, bureau or agency, except such bureau or agency that might participate in the financing of the cost of any such project.

(k) To designate the locations, and establish, limit, and control such points of ingress to and egress from each project as may be necessary or desirable in the judgment of the authority to insure the proper operation and maintenance of such project, and to prohibit entrance to such project from any point or points not so designated.

(*l*) To construct highway and railroad crossings at grade or by means of grade separation structures.

(m) To sue and be sued in its corporate name.

(n) To adopt, use, and alter a corporate seal.

(o) To make bylaws for the management and regulation of its affairs.

(p) To employ a general manager, who shall, at the discretion of the board of trustees, have the power to employ and discharge employees.

SOURCES: Codes, 1942, § 8368-14; Laws, 1966, ch. 603, § 14, eff from and after passage (approved June 17, 1966).

RESEARCH REFERENCES

ALR. Negligent discharge of employee. 53 A.L.R.5th 219.

Am Jur. 40 Am. Jur. 2d, Highways, Streets, and Bridges §§ 682 et seq.

§ 65-13-33. Authority to issue bonds.

The highway and street revenue bond authority, through its board of trustees and subject to the approval of the board of supervisors and the governing body of any other municipality joining the authority, either at the time of its creation or afterward, is further empowered to finance all cost in connection with the work authorized in this chapter by the issuance of revenue bonds. Such bonds shall be issued at such times and in such amounts as shall be provided by resolution of the board of trustees and approved by the board of supervisors of the county and the governing body of other municipalities, agencies or departments involved in the payment of cost.

The board of trustees is further authorized to make such contracts, within the authority of this chapter, in the issuance of bonds as may be necessary to insure the marketability thereof. All bonds sold to any person or persons other than agencies of the county, state, or federal government will be sold by the sealed bid procedure, and the bonds will be sold and delivered to the parties proposing the lowest overall average interest cost.

SOURCES: Codes, 1942, § 8368-15; Laws, 1966, ch. 603, § 15, eff from and after passage (approved June 17, 1966).

Cross References — Additional powers conferred in connection with issuance of bonds, see §§ 31-21-5 and 65-13-37.

§ 65-13-35. Security for bonds.

All such bonds issued by the authority shall be secured solely by pledge of the net revenues which may now or hereafter come to the authority. Such bonds shall not constitute general obligations of the State of Mississippi or of the county supervisors district or municipalities comprising the authority, and such bonds shall not be secured by a pledge of the full faith, credit, and resources of said state, county, district, or municipality.

SOURCES: Codes, 1942, § 8368-16; Laws, 1966, ch. 603, § 16, eff from and after passage (approved June 17, 1966).

§ 65-13-37. General provisions for bonds.

The bonds of the authority shall not be included in computing any present or future debt limit of the county, supervisors district, municipality, agency, or department under any present or future law.

All such bonds provided by this chapter shall be negotiable instruments within the meaning of the Uniform Commercial Code, shall be lithographed or engraved and printed in two (2) or more colors to prevent counterfeiting. They shall be in denominations of not less than One Thousand Dollars ($1,000.00), may be registered as issued, and shall be numbered as determined by the authority. Each such bond shall specify on its face the purpose for which it was issued and the total amount authorized to be issued, and the interest to accrue thereon may be evidenced by proper coupons to be attached thereto. Such bonds shall bear interest at such rate or rates as may be determined by the sale of such bonds, provided that the bonds of any issue shall not bear a greater overall maximum interest rate to maturity than that allowed in Section 75-17-103. They shall mature annually in such amounts and at such times as shall be provided by the resolution of the board of trustees. No bond shall have a longer maturity than forty (40) years from date of issuance, and the first maturity date thereof shall be not more than five (5) years from the date of such bonds. The denomination, form, and place or places of payment of such bonds shall be fixed in the resolution of the board of trustees of the authority. Such bonds shall be signed by the president and secretary of such board, with the seal of the authority affixed thereto, but the coupons, if any, may bear only the facsimile signatures of such president and secretary. All interest accruing on such bonds so issued shall be payable semiannually, except that the first interest coupon attached to any such bond may be for any period not exceeding one (1) year. Only one (1) coupon may be attached to a bond for any one (1) specified period of time. No interest coupon can vary more than twenty-five percent (25%) in value from any other coupon on the same bond or another coupon in the same issue.

Such bonds may be called in, paid, and redeemed in inverse numerical order on any interest date prior to maturity, upon not less than thirty (30) days' notice to the paying agent or agents designated in such bonds, and at such premium as may be designated in such bonds. However, in no case shall any premiums exceed six percent (6%) of the face value of such bonds.

All such bonds shall contain in substance a statement to the effect that they are secured solely by a pledge of the net revenues of the authority and/or the avails of voluntary assessments of adjacent landowners, and that they do not constitute general obligations of any political subdivision of the State of Mississippi except the authority created by this chapter, and are not secured by a pledge of the full faith, credit, and resources of said state or of such county or counties.

All such bonds as provided for herein shall be sold under the sealed bid procedure at public sale as now provided by law except as otherwise provided herein. No such sale shall be at a price so low as to require the payment of interest on money received therefor at more than a greater overall maximum interest rate to maturity than that allowed in Section 75-17-103.

This chapter shall be full and complete authority for the issuance of the bonds provided for herein, and no restriction or limitation otherwise prescribed by law shall apply herein.

Notwithstanding the foregoing provisions of this section, bonds referred to hereinabove may be issued pursuant to the supplemental powers and authorizations conferred by the provisions of the Registered Bond Act, being Sections 31-21-1 through 31-21-7.

SOURCES: Codes, 1942, §§ 8368-16, 8368-17; Laws, 1966, ch. 603, §§ 16, 17; Laws, 1983, ch. 494, § 30; Laws, 1985, ch. 477, § 13, eff from and after passage (approved April 8, 1985).

§ 65-13-39. Validation of bonds.

All bonds issued pursuant to this chapter shall be validated as now provided by law by Sections 31-13-1 through 31-13-11, Mississippi Code of 1972. The services of the state's bond attorney may be employed in the preparation of such bond resolutions, forms, or proceedings as may be necessary, for which he shall be paid a reasonable fee. Such validation proceedings shall be instituted in the chancery court of the county in which the projects proposed by this chapter are located, but notice of such validation proceedings shall be published at least two times in a newspaper of general circulation and published in any county involved, the first publication of which in each case shall be made at least ten days preceding the date set for the validation.

SOURCES: Codes, 1942, § 8368-18; Laws, 1966, ch. 603, § 18, eff from and after passage (approved June 17, 1966).

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 454 et seq.

§ 65-13-41. Bonds as legal investments for public funds.

All bonds issued by the authority shall be and are hereby declared to be legal and authorized investments for public funds of counties, cities, towns, school districts, banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, and for funds of the Mississippi Public Employees' Retirement System. Such bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Mississippi; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

SOURCES: Codes, 1942, § 8368-19; Laws, 1966, ch. 603, § 19, eff from and after passage (approved June 17, 1966).

§ 65-13-43. Levy of assessments in lieu of tolls.

The board of trustees may, in lieu of charging and collecting tolls or in combination with the charging and collection of tolls, levy or assess adjacent property owners or the different supervisors districts, municipalities, agencies, departments, or other instrumentalities assisting in the development of the works authorized herein with an amount of money which, together with other revenues, will provide sufficient funds to carry out the purpose of this chapter. All political subdivisions of this state are hereby authorized and empowered to make such agreements with the board of trustees as are necessary to carry out the purpose of this section. All assessments shall be voluntary and at the discretion of the party or governmental subdivision upon which the assessment is to be levied. All procedures, regulations, commitments, etc., shall be outlined in detail on a resolution by the board of trustees of the authority prior to acceptance by any political subdivision of this state and agencies, commissions, departments, and other instrumentalities thereof.

SOURCES: Codes, 1942, § 8368-20; Laws, 1966, ch. 603, § 20, eff from and after passage (approved June 17, 1966).

§ 65-13-45. Authority may act jointly with other governmental bodies.

The authority, through its board of trustees, shall have authority to act jointly with political subdivisions of the state, agencies, commissions, and instrumentalities thereof, with other states, with municipalities, and with the federal government and other agencies thereof in the performance of the purposes and services authorized in this chapter, upon such terms as may be agreed upon by the trustees.

SOURCES: Codes, 1942, § 8368-21; Laws, 1966, ch. 603, § 21, eff from and after passage (approved June 17, 1966).

§ 65-13-47. Bond interest tax exempt.

The accomplishment of the purposes stated in this chapter being for the benefit of the people of this state and for the improvement of their properties and industries, the authority in carrying out the purposes of this chapter will be performing an essential public function, and the interest on the bonds issued hereunder shall at all times be free from taxation within this state.

SOURCES: Codes, 1942, § 8368-22; Laws, 1966, ch. 603, § 22, eff from and after passage (approved June 17, 1966).

§ 65-13-49. Construction contracts.

All construction contracts by the authority where the amount of the contract shall exceed Two Thousand Five Hundred Dollars ($2,500.00) shall be made upon at least three (3) weeks' public notice by advertisement in a newspaper of general circulation in the area of the project, which notice shall state the thing to be done and invite sealed proposals, to be filed with the secretary of the authority, to do the work. In all such cases, before the notice shall be published, the plans and specifications for the work shall be filed with the secretary of the authority, and there remain. The board of trustees shall award the contract to the lowest bidder, who will comply with the terms imposed by such trustees and enter into bond with sufficient sureties to be approved by the trustees in such penalty as shall be fixed by the trustees, but in no case to be less than the contract price, conditioned for the prompt, proper, and efficient performance of the contract.

SOURCES: Codes, 1942, § 8368-23; Laws, 1966, ch. 603, § 23, eff from and after passage (approved June 17, 1966).

§ 65-13-51. Designation of depository.

The board of trustees shall designate one or more banks within the county to serve as depositories for the funds of the authority, and all funds of the authority shall be deposited in such depository bank or banks.

Before designating a depository bank or banks, the trustees shall issue a notice stating the time and place the trustees will meet for such purpose and inviting the banks in the area to submit applications to be designated depositories. The term of service for depositories shall be prescribed by the trustees. Such notice shall be published one time in a newspaper or newspapers published in the area and specified by the trustees.

At the time mentioned in the notice, the trustees shall consider the applications and the management and condition of the banks filing them, and shall designate as depositories the bank or banks which offer the most favorable terms and conditions for the handling of the funds of the authority and which the trustees find have proper management and are in condition to warrant handling of authority funds. Membership on the board of trustees of an officer or director of a bank shall not disqualify such bank from being designated as a depository.

If no applications acceptable to the trustees are received by the time stated in the notice, the trustees shall designate some bank or banks within or without the authority upon such terms and conditions as they may find advantageous to the authority.

SOURCES: Codes, 1942, § 8368-24; Laws, 1966, ch. 603, § 24, eff from and after passage (approved June 17, 1966).

§ 65-13-53. Cessation of tolls or assessments.

When the particular bonds issued for the projects to be constructed under this chapter and the interest thereon shall have been paid, or a sufficient amount shall have been provided for their payment and shall continue to be held for that purpose, and upon acceptance of the responsibility for operation and maintenance of the project by an agency of government legally authorized to do so, the authority shall cease to charge tolls or levy assessments for use of the project or projects, and thereafter the use of such projects shall be free.

SOURCES: Codes, 1942, § 8368-25; Laws, 1966, ch. 603, § 25, eff from and after passage (approved June 17, 1966).

§ 65-13-55. Authority's procedures to conform to constitutions.

Nothing in this chapter shall be construed to violate any provision of the federal or state constitutions, and all acts done under this chapter shall be done in such manner as will conform thereto, whether herein expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such constitutions, the authority shall have the power by resolution to provide an alternative procedure conformable with such constitutions.

SOURCES: Codes, 1942, § 8368-26; Laws, 1966, ch. 603, § 26, eff from and after passage (approved June 17, 1966).

CHAPTER 15

County Funds for Roads and Bridges

Sec.
65-15-1. Funds for roads and bridges.
65-15-3. Tax for construction and maintenance of highways.
65-15-5. Validity of assessment.
65-15-7. Tax for bridges and culverts.
65-15-9. Gasoline tax in payment of road bond issues.
65-15-11. Board of supervisors not required to set aside gasoline tax where sufficient amount on hand to pay bonds.
65-15-13. Use of gasoline tax not to affect other financing.
65-15-15. Tax for payment of bonds and interest.
65-15-17. Special fund paid into general fund.
65-15-19. Balance in sinking fund after payment of bonds.
65-15-21. Refund to municipalities.
65-15-23. Payment of municipal refund.
65-15-25. Authority to transfer surplus tolls to county road and bridge fund.

§ 65-15-1. Funds for roads and bridges.

[With regard to any county which is exempt from the provisions of Section 19-2-3, this section shall read as follows:]

The board of supervisors may raise funds for working, constructing, reconstructing, and maintaining public roads or for building bridges by an ad valorem tax on all assessed taxable property in the county or supervisors district or districts, or by a bond issue, or by either or both of said methods.

[With regard to any county which is required to operate on a countywide system of road administration as described in Section 19-2-3, this section shall read as follows:]

The board of supervisors may raise funds for working, constructing, reconstructing and maintaining public roads or for building bridges by an ad valorem tax on all assessed taxable property in the county, or by a bond issue, or by either or both of said methods.

SOURCES: Codes, Hemingway's 1921 Supp. § 7157b; 1930, § 6389; 1942, § 8357; Laws, 1920, ch. 276; Laws, 1928, ch. 157; Laws, 1988 Ex Sess, ch. 14, § 50, eff from and after October 1, 1989.

Cross References — Tax for payment of road bonds and interest thereon, see § 65-15-15.

Local System Road Program to assist counties in the construction, reconstruction and paving of county roads not on the state aid road system, see §§ 65-18-1 et seq.

Commutation road taxes in separate road districts, see § 65-19-57.

JUDICIAL DECISIONS

1. In general.

County is not liable to city under Code 1942, § 8367, providing that one-half of taxes collected for road purposes by county on property in a city working its own streets, shall be paid to such city, where county had neither levied nor collected any tax for such purpose, although bridge taxes were levied and collected, and allegedly spent by county for general road purposes. City of Crystal Springs v. Copiah County, 207 Miss. 257, 42 So. 2d 188 (1949).

ATTORNEY GENERAL OPINIONS

A county may not prohibit the traffic on the private road from utilizing the public road. But, the county may exercise reasonable regulation and control through the use of design standards, safety regulations, and current traffic laws when determining how the private road joins the end of the county road. Kilpatrick, July 16, 2004, A.G. Op. 04-0306.

RESEARCH REFERENCES

Am Jur. 39 Am. Jur. 2d, Highways, Streets, and Bridges §§ 130 et seq.

CJS. 40 C.J.S., Highways §§ 365 et seq., 374 et seq.

§ 65-15-3. Tax for construction and maintenance of highways.

The board shall levy annually a tax upon the taxable property of such county to be used for road and bridge purposes; and the tax collector shall collect such taxes at the time and in the manner state, county, and other taxes are collected. All laws for the enforcement of the collection of other taxes shall apply to the collection of such taxes, and the tax collector's bond shall cover the same in like manner. When such taxes are collected, they shall be paid into the county depository as other taxes, and in like manner shall be covered by the bond of the county depository. Such funds shall be kept as a separate road fund and shall be paid out only on allowances and warrants of the board of supervisors for said purposes.

SOURCES: Codes, Hemingway's 1917, § 7245; 1930, § 6390; 1942, § 8358; Laws, 1914, ch. 175.

Cross References — Taxing powers of board of supervisors, see § 19-3-41.
Refund of certain road taxes to municipalities, see § 65-15-21.
Collection of taxes to support separate road districts, see § 65-19-87.

JUDICIAL DECISIONS

1. In general.

This section and Code of 1942, § 8360, which provides that the board of supervisors of any county may, in its discretion, levy annually an ad valorem tax on all taxable property of the county to be used for constructing and maintaining all bridges and culverts on the public roads throughout the county, do not nullify Code 1942, § 9880, which allows the board of supervisors to impose a county wide levy for the maintenance and/or construction of roads and bridges not to exceed seven mills in any one year and county wide levies may therefore be made under Code 1942, § 9880. City of McComb v. Pike County, 212 Miss. 90, 54 So. 2d 171 (1951).

Order of supervisors levying a bridge tax and a road tax under Code 1942, § 9880, which provides that the board of supervisors may impose a county wide levy or levies for the maintenance and/or construction of roads and bridges not to exceed seven mills in any one year, was not a levy for the roads alone but the supervisors could make separate levies for roads and bridges and the city could collect only one-half of the road fund and nothing of the bridge fund. City of McComb v. Pike County, 212 Miss. 90, 54 So. 2d 171 (1951).

ATTORNEY GENERAL OPINIONS

A county board of supervisors lacks statutory authority to contribute road and bridge tax money to a property owners' association for maintenance of the association's private roads. Artigues, Sept. 12, 2003, A.G. Op. 03-0419.

RESEARCH REFERENCES

Am Jur. 39 Am. Jur. 2d, Highways, Streets, and Bridges § 130.

CJS. 40 C.J.S., Highways §§ 374 et seq.

§ 65-15-5. Validity of assessment.

No failure to strictly comply with the provisions of this chapter, such as the invalidity of any contract or other like irregularity, shall in any manner affect the validity of the assessment of the ad valorem tax hereby provided, but the validity of such assessments shall be tested by the same rules of law that the validity of other assessments are determined by.

SOURCES: Codes, 1906, § 4474; Hemingway's 1917, § 7149; 1930, § 6391; 1942, § 8359.

Cross References — Objections to assessments generally, see § 27-35-89.
Appeals from assessments, see §§ 27-35-119 et seq.

§ 65-15-7. Tax for bridges and culverts.

The board of supervisors of any county may, in its discretion, levy annually an ad valorem tax on all taxable property of the county, to be used for constructing and maintaining all bridges and culverts on the public roads throughout the county.

SOURCES: Codes, 1930, § 6392; 1942, § 8360; Laws, 1928, ch. 157; Laws, 1936, ch. 273.

Cross References — Homestead exemptions, see § 27-33-3.

JUDICIAL DECISIONS

1. In general.

Order of supervisors levying a bridge tax and a road tax under Code 1942, § 9880, which provides that the board of supervisors may impose a county wide levy or levies for the maintenance and/or construction of roads and bridges not to exceed seven mills in any one year, was not a levy for the roads alone but the supervisors could make separate levies for roads and bridges and the city could collect only one-half of the road fund and nothing of the bridge fund. City of McComb v. Pike County, 212 Miss. 90, 54 So. 2d 171 (1951).

Neither Code 1942, § 8358, which provides that the board shall levy annually a tax, upon the taxable property of such county to be used for road and bridge purposes, nor this section nullify Code 1942, § 9880, which allows the board of supervisors to impose a county wide levy or levies for the maintenance and/or construction of roads and bridges not to exceed seven mills in any one year and county wide levies may therefore be made under Code 1942, § 9880. City of McComb v. Pike County, 212 Miss. 90, 54 So. 2d 171 (1951).

County is not liable to city under Code 1942, § 8367, providing that one-half of taxes collected for road purposes by county on property in a city working its own streets, shall be paid to such city, where county had neither levied nor collected any tax for such purpose, although bridge taxes were levied and collected, and allegedly spent by county for general road purposes. City of Crystal Springs v. Copiah County, 207 Miss. 257, 42 So. 2d 188 (1949).

§ 65-15-9. Gasoline tax in payment of road bond issues.

[With regard to any county which is exempt from the provisions of Section 19-2-3, this section shall read as follows:]

The board of supervisors of any county in the state in which there are county road bonds, district road bonds, sea wall bonds, or road protection bonds outstanding, which were issued for the purpose of building bridges or constructing public roads or sea walls, may, in its discretion, in addition to all other lawful uses, use such county's share, or any part thereof, of the funds heretofore or hereafter derived from the tax on gasoline and the road and bridge privilege tax for the further purpose of paying interest and principal of such county road bonds or road district bonds heretofore issued for any of the said above stated purposes. However, nothing in this section shall in anywise affect Section 65-33-45, Mississippi Code of 1972.

[With regard to any county which is required to operate on a countywide system of road administration as described in Section 19-2-3, this section shall read as follows:]

The board of supervisors of any county in the state in which there are county road bonds, seawall bonds, or road protection bonds outstanding which were issued for the purpose of building bridges or constructing public roads may, in its discretion, in addition to all other lawful uses, use such county's share, or any part thereof, of the funds heretofore or hereafter derived from the tax on gasoline and the road and bridge privilege tax for the further purpose of paying interest and principal of such county road bonds heretofore issued for any of the said above stated purposes. However, nothing in this section shall in anywise affect Section 65-33-45.

SOURCES: Codes, 1930, § 6394; 1942, § 8362; Laws, 1926, ch. 208; Laws, 1931, ch. 20; Laws, 1988 Ex Sess, ch. 14, § 51, eff from and after October 1, 1989.

Cross References — No existing law providing methods for construction or maintenance of public highways, bridges, or culverts of the county or special or separate road districts affected by this § 65-15-9, see § 65-15-13.

§ 65-15-11. Board of supervisors not required to set aside gasoline tax where sufficient amount on hand to pay bonds.

[With regard to any county which is exempt from the provisions of Section 19-2-3, this section shall read as follows:]

In any county having countywide road or bridge bonds or district road or bridge bonds outstanding, and having on hand in the county treasury to the credit of a special fund set aside from the county's share of the gasoline tax for the payment of the principal and interest of such bonds, or to the credit of bond and interest sinking funds, a sufficient amount to pay the principal of and interest on all such countywide road or bridge bonds and district road or bridge bonds outstanding, the board of supervisors shall no longer be required to set aside any part of the county's share of the gasoline tax or the county's share of motor vehicle privilege taxes, to be used in paying the principal and interest of such road or bridge bonds as they mature. In any such case, however, the funds already set aside from the county's share of the gasoline tax or the county's share of the motor vehicle privilege taxes, for the payment of the principal and interest of said bonds, shall be applied to the payment of the principal and interest of said bonds as they mature and shall not be used by the board of supervisors for any other purpose; however, when all of said bonds shall have been paid, any balance remaining in said funds may be transferred by the board of supervisors to the county or district road or bridge maintenance fund.

[With regard to any county which is required to operate on a countywide system of road administration as described in Section 19-2-3, this section shall read as follows:]

In any county having road or bridge bonds outstanding, and having on hand in the county treasury to the credit of a special fund set aside from the county's share of the gasoline tax for the payment of the principal and interest of such bonds, or to the credit of bond and interest sinking funds, a sufficient amount to pay the principal of and interest on all such road or bridge bonds outstanding, the board of supervisors shall no longer be required to set aside any part of the county's share of the gasoline tax or the county's share of motor vehicle privilege taxes, to be used in paying the principal and interest of such road or bridge bonds as they mature. In any such case, however, the funds already set aside from the county's share of the gasoline tax or the county's share of the motor vehicle privilege taxes, for the payment of the principal and interest of said bonds, shall be applied to the payment of the principal and interest of said bonds as they mature and shall not be used by the board of supervisors for any other purpose; however, when all of said bonds shall have been paid, any balance remaining in said funds may be transferred by the board of supervisors to the county road or bridge maintenance fund.

SOURCES: Codes, 1942, § 8362-01; Laws, 1944, ch. 193; Laws, 1988 Ex Sess, ch. 14, § 52, eff from and after October 1, 1989.

Cross References — Issuance of county bonds and notes, see §§ 19-9-1 et seq.

§ 65-15-13. Use of gasoline tax not to affect other financing.

[With regard to any county which is exempt from the provisions of Section 19-2-3, this section shall read as follows:]

No existing law providing methods for the construction or maintenance of any public highway, bridges, or culverts of the county or special or separate road district shall be affected by Section 65-15-9; and it does not supersede or impair the obligation of any county to levy a sufficient legal ad valorem tax for the purpose of construction and maintenance of public highways, bridges, or culverts, or a sufficient ad valorem tax to pay the interest or principal of any bonds heretofore or hereafter issued for the purpose of building bridges and constructing public roads. Nor does it supersede or impair any right to issue bonds for any purpose, and it shall not alter, amend or repeal any statute except insofar as such statutes are inconsistent herewith.

[With regard to any county which is required to operate on a countywide system of road administration as described in Section 19-2-3, this section shall read as follows:]

No existing law providing methods for the construction or maintenance of any public highway, bridges or culverts of the county shall be affected by Section 65-15-9; and it does not supersede or impair the obligation of any county to levy a sufficient legal ad valorem tax for the purpose of construction and maintenance of public highways, bridges or culverts, or a sufficient ad valorem tax to pay the interest or principal of any bonds heretofore or hereafter issued for the purpose of building bridges and constructing public roads. Nor does it supersede or impair any right to issue bonds for any purpose, and it shall not alter, amend or repeal any statute except insofar as such statutes are inconsistent herewith.

SOURCES: Codes, 1930, § 6395; 1942, § 8363; Laws, 1926, ch. 208; Laws, 1988 Ex Sess, ch. 14, § 53, eff from and after October 1, 1989.

ATTORNEY GENERAL OPINIONS

Fact that county elected to employ gasoline tax proceeds to payment of interest or principal due on the road and bridge bonds does not impair or supersede county's obligation to levy ad valorem tax on property within district for which bonds were issued to extent needed to insure bond payments are made as promised. Logan, Oct. 12, 1992, A.G. Op. #92-0753.

§ 65-15-15. Tax for payment of bonds and interest.

The board shall levy annually, when other taxes are levied, a special tax to be used exclusively in paying the interest on such road bonds and in providing a sinking fund for their redemption.

SOURCES: Codes, Hemingway's 1917, § 7244; 1930, § 6396; 1942, § 8364; Laws, 1914, ch. 175.

§ 65-15-17. Special fund paid into general fund.

In counties which have heretofore created special or general road funds under then existing laws, the boards of supervisors may use such funds as if originally collected hereunder. In case the board of supervisors shall, in availing themselves of this provision, relieve from the operation of the contract system any part of a county entitled to a special fund, the board may also order that such special fund shall become a part of the general fund.

SOURCES: Codes, 1906, § 4469; Hemingway's 1917, § 7144; 1930, § 6397; 1942, § 8365.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

§ 65-15-19. Balance in sinking fund after payment of bonds.

[With regard to any county which is exempt from the provisions of Section 19-2-3, this section shall read as follows:]

Where bonds have been issued by any road district, separate road district or special road district, and said bonds and interest thereon have been paid and there remains in the sinking fund or maintenance fund of such district any balance of funds collected for the purpose of paying such bonds or interest, the board of supervisors of the county in which such district or districts is located may, in its discretion, transfer any or all of said funds to the county road or bridge fund or any supervisors district road or bridge fund, to be used and expended in working and maintaining the roads of the district for which such bonds were issued, or may, without such transfer, spend such funds for maintenance of roads within the district from which said funds were collected.

[With regard to any county which is required to operate on a countywide system of road administration as described in Section 19-2-3, this section shall read as follows:]

Where bonds have been issued by any road district, separate road district or special road district, and said bonds and interest thereon have been paid and there remains in the sinking fund or maintenance fund of such district any balance of funds collected for the purpose of paying such bonds or interest, the board of supervisors of the county in which such district or districts are located shall transfer any or all of said funds to the county road or bridge fund to be used and expended in working and maintaining the roads of the county.

SOURCES: Codes, 1942, § 8366; Laws, 1942, ch. 211; Laws, 1988 Ex Sess, ch. 14, § 54, eff from and after October 1, 1989.

Cross References — Special tax to establish sinking fund for redemption of road bonds, see § 65-15-15.

§ 65-15-21. Refund to municipalities.

[With regard to any county which is exempt from the provisions of Section 19-2-3, this section shall read as follows:]

One-half (½) of all ad valorem taxes collected by or for a county or a separate or special road district on property within a municipality (the streets of which are worked at the expense of the municipal treasury, or worked by municipal authority) for road purposes of such county or district, not including taxes for the purposes of paying bonds issued for road purposes or the interest thereon or for creating a bond and interest fund for retiring the same, shall be paid over to the treasurer of such municipality for said municipality.

Any municipality may contract with its board of supervisors, or any member thereof, whereby work may be performed on the streets maintained by said municipality in lieu of the refund of one-half (½) of the road taxes collected under this section and in such event such agreement shall be spread at large upon the minutes of both the governing authorities of such municipality and the board of supervisors of such county.

[With regard to any county which is required to operate on a countywide system of road administration as described in Section 19-2-3, this section shall read as follows:]

One-half (½) of all ad valorem taxes collected by or for a county on property within a municipality (the streets of which are worked at the expense of the municipal treasury, or worked by municipal authority) for road purposes of such county, not including taxes for the purposes of paying bonds issued for road purposes or the interest thereon or for creating a bond and interest fund for retiring the same, shall be paid over to the treasurer of such municipality for said municipality.

Any municipality may contract with its board of supervisors, whereby work may be performed on the streets maintained by said municipality in lieu of the refund of one-half (½) of the road taxes collected under this section, and in such event such agreement shall be spread at large upon the minutes of both the governing authorities of such municipality and the board of supervisors of such county.

SOURCES: Codes, Hemingway's 1921 Supp. § 7259n; Laws, 1930, § 6417; Laws, 1942, § 8367; Laws, 1920, ch. 232; Laws, 1950, ch. 233, § 1; Laws, 1988 Ex Sess, ch. 14, § 55, eff from and after October 1, 1989.

Cross References — Municipal tax levy for street and cemetery purposes, see § 21-33-89.

Homestead exemptions, see §§ 27-33-3, 27-33-67 et seq.

Reimbursement by the state to counties, school districts and municipalities for tax loss due to homestead exemptions, see §§ 27-33-77, and 27-33-79.

Apportionment of gasoline taxes, see § 27-5-101.

Distribution of local vehicle taxes, see § 27-19-159.

Levy and collection of tax for construction and maintenance of highways, see § 65-15-3.

Use by counties of gasoline tax to pay for road bond issues, see § 65-15-9.

Payment of municipal refund, see § 65-15-23.

Levy of special tax for maintenance of highways in separate road districts, see § 65-19-33.

JUDICIAL DECISIONS

1. In general.
2. Illegal collection of taxes.
3. Bridge taxes.
4. Notice of work done, and of claim to share of tax.
5. Pleading.
6. Collection by state tax collector.

1. In general.

Where city's claim for taxes under this section had never been presented to board of supervisors for payment or rejection, the chancery court was without jurisdiction of suit to enforce such claim. City of Crystal Springs v. Copiah County, 207 Miss. 257, 42 So. 2d 188 (1949).

When a county received a sum of money from the state as a reimbursement for tax loss by reason of its being prevented by the Homestead Exemption Act from collecting ad valorem taxes for road purposes on homestead property in a municipality, the funds so received were in lieu of such ad valorem taxes, and, in view of the statute providing the one-half of all ad valorem taxes collected by or for a county on property within a municipality for road purposes should be paid over to the municipality, one-half of the amount thus received from the state should have been paid over by the county to the municipality. Coahoma County v. City of Clarksdale, 192 Miss. 851, 7 So. 2d 882 (1942).

The statute providing that one-half of all ad valorem taxes collected for road purposes by or for a county on property within a municipality, the streets of which are worked at the expense of the municipality, shall be paid over to the municipality was neither repealed nor amended by the Homestead Exemption Law, with the provision therein relating to reimbursement of the taxing units by the state for tax loss resulting from being prevented from collecting ad valorem taxes on homestead property for road purposes. Coahoma County v. City of Clarksdale, 192 Miss. 851, 7 So. 2d 882 (1942).

In order for members of the board of supervisors to be personally liable on their bond for failure to make an allowance to a municipality working its own streets of its proportionate share to ad valorem taxes for road purposes, it would have to appear by pleading or proof, that it was a ministerial duty only, and not a judicial power that was being exercised. State, ex rel. City of Aberdeen v. Board of Supvrs., 188 Miss. 636, 196 So. 253 (1940), error overruled, 188 Miss. 646, 196 So. 649 (1940).

Legislature's ratification of payments made by counties to municipalities renders it immaterial whether board of supervisors properly allowed them or whether municipality rightfully claimed them. Panola County v. Town of Sardis, 171 Miss. 490, 157 So. 579 (1934).

Taxes levied to repay money borrowed for purchase of road machinery, gas, and oil for operation thereof, for employment of labor and materials, and for straightening and grading existing roads held levied for "road purposes" within statute requiring county's division with municipality of taxes collected for road purposes within municipality. City of Winona v. Montgomery County, 170 Miss. 824, 155 So. 169 (1934).

Statute requiring county to refund to municipality certain road taxes collected cannot be evaded by administrative devices. Gully v. Attala County, 165 Miss. 86, 145 So. 907 (1933); Panola County v. Sardis, 171 Miss. 490, 157 So. 579 (1934).

Short notes, made for road purposes in anticipation of current taxes, were not "bonds" so as to relieve county from duty to pay town portion of taxes collected to pay notes. Town of Purvis v. Lamar County, 161 Miss. 454, 137 So. 323 (1931).

Long-continued legislative policy respecting county's payment of portion of taxes collected for road purposes to towns maintaining streets cannot be nullified by argument respecting inconvenience. Town of Purvis v. Lamar County, 161 Miss. 454, 137 So. 323 (1931).

Municipality could not recover one-half of ad valorem road taxes pursuant to resolution enacted after collection without showing funds had not been "otherwise appropriated or expended." Town of Ackerman v. Choctaw County, 157 Miss. 594, 128 So. 757 (1930).

Law authorizing county to construct sea wall did not impliedly repeal law requiring county to pay one-half of ad valorem road taxes to municipality. Board of Supvrs. v. City of Bay St. Louis, 157 Miss. 459, 128 So. 331 (1930).

2. Illegal collection of taxes.

One-half of all ad valorem taxes collected by county on property within municipality for road purposes must be paid to municipality whether taxes were legally collected or not. Town of Purvis v. Lamar County, 161 Miss. 454, 137 So. 323 (1931).

That borrowing of money for road purposes, to repay which taxes were collected by county, was without authority, would not aid county in town's suit to recover its portion of taxes collected. Town of Purvis v. Lamar County, 161 Miss. 454, 137 So. 323 (1931).

3. Bridge taxes.

Order of supervisors levying a bridge tax and a road tax under Code 1942, § 9880, which provides that the board of supervisors may impose a county wide levy or levies for the maintenance and/or construction of roads and bridges not to exceed seven mills in any one year, was not a levy for the roads alone but the supervisors could make separate levies for roads and bridges and the city could collect only one-half of the road fund and nothing of the bridge fund. City of McComb v. Pike County, 212 Miss. 90, 54 So. 2d 171 (1951).

This section which allows municipalities one-half of the road taxes levied and collected by the county does not vest in municipalities any right to the bridge fund. City of McComb v. Pike County, 212 Miss. 90, 54 So. 2d 171 (1951).

Mere illegal diversion of bridge funds by county to other county purposes, even roads, cannot be successfully argued to be a fraud against a municipality entitled to share only in road funds collected by an ad valorem tax levied on property within the corporate limits. City of Crystal Springs v. Copiah County, 207 Miss. 257, 42 So. 2d 188 (1949).

County is not liable to city as to division of taxes under this section, where county had neither levied nor collected any tax for such purpose, although bridge taxes were levied and collected, and allegedly spent by county for general road purposes. City of Crystal Springs v. Copiah County, 207 Miss. 257, 42 So. 2d 188 (1949).

Where board of supervisors levied tax for bridge purposes, it could be used only for such purpose in absence of enabling statute authorizing another use and municipality within county was not entitled to one-half of such funds though it worked its streets at its own expense. Panola County v. Sardis, 171 Miss. 490, 157 So. 579 (1934); Panola County v. Gully, 157 So. 584 (Miss. 1934); Panola County v. Crenshaw, 157 So. 584 (Miss. 1934); Panola County v. Crowder, 157 So. 584 (Miss. 1934); Greenwood v. Leflore County, 157 So. 585 (Miss. 1934).

Statute held not to manifest legislative intention that levies by board of supervisors specially made for bridge purposes prior to 1928 statute should be divided between municipality and county. Panola County v. Sardis, 171 Miss. 490, 157 So. 579 (1934); Panola County v. Gully, 157 So. 584 (Miss. 1934); Panola County v. Crenshaw, 157 So. 584 (Miss. 1934); Panola County v. Crowder, 157 So. 584

(Miss. 1934); Greenwood v. Leflore County, 157 So. 585 (Miss. 1934).

Town held entitled to recover from county one-half of road tax collected within town, although levy was used in building and maintaining county bridges. Gully v. Attala County, 165 Miss. 86, 145 So. 907 (1933).

4. Notice of work done, and of claim to share of tax.

In order for a municipality to be entitled to ad valorem taxes for road purposes, such taxes being collected on property within the municipality, it should have filed with the board of supervisors an ordinance or some other appropriate record, showing that the municipality worked its streets at its own expense, such showing being jurisdictional to the power of the Board to make the allowance. State, ex rel. City of Aberdeen v. Board of Supvrs., 188 Miss. 636, 196 So. 253 (1940), error overruled, 188 Miss. 646, 196 So. 649 (1940).

There is a distinction between the necessity for notifying the board of supervisors of the fact that the streets of the municipality have been worked at the expense of the municipal treasury, or worked by municipal authority, and the fact that the claim for its share of the ad valorem taxes will be made, in the latter instance no notice of the municipality's intention to claim its share of the taxes being required, while in the former case it is necessary that the board of supervisors be officially advised of the basis of its authority to make the refund, since it is only where such streets have been worked at the expense of the municipal treasury, or by municipal authority, that the board is required, or given the power and authority, to make the allowance. State, ex rel. City of Aberdeen v. Board of Supvrs., 188 Miss. 636, 196 So. 253 (1940), error overruled, 188 Miss. 646, 196 So. 649 (1940).

Prior to adoption of Code 1930, that is, from April 16, 1928, to November 1, 1930, right of municipality to recover one-half of road taxes from county remained subject to requirement that resolution be passed and notice thereof duly served. City of Okolona v. Chickasaw County, 171 Miss. 424, 157 So. 690 (1934).

Municipality, before becoming entitled to recover one-half of road taxes collected by county prior to adoption of Code 1930, must have previously passed and served valid resolution declaring desire to claim such taxes, and, as to period previous to April 16, 1928, funds out of which recovery could be had must have remained unexpended and unappropriated, but not as to those subsequent to that date. City of Okolona v. Chickasaw County, 171 Miss. 424, 157 So. 690 (1934).

Where record of called meeting of city council failed to show that notice was served on two councilmen or that such councilmen were present, resolution passed at such meeting, claiming road taxes from county, was invalid. City of Okolona v. Chickasaw County, 171 Miss. 424, 157 So. 690 (1934).

Where county made payments of share of road taxes to municipality, and, subsequently, it was discovered that resolution claiming such taxes was improperly passed, county held, nevertheless, not entitled to recover back moneys paid over to city under invalid resolution. City of Okolona v. Chickasaw County, 171 Miss. 424, 157 So. 690 (1934).

Resolution and notice by city, prior to adoption of Code 1930, claiming one-half of road taxes collected by county, have no retroactive effect, and, before passage of resolution and service of notice, no road taxes became due municipality. City of Okolona v. Chickasaw County, 171 Miss. 424, 157 So. 690 (1934).

Failure of municipality to properly pass resolution claiming one-half of road taxes and to properly give notice thereof to county board of supervisors was not affected or aided by statute limiting right of recovery by municipalities which passed resolutions, to funds not otherwise appropriated or expended by county. City of Okolona v. Chickasaw County, 171 Miss. 424, 157 So. 690 (1934).

5. Pleading.

Declaration to recover for use of municipalities one-half of ad valorem road taxes collected by county after November 1, 1930, need not allege that taxes have not been otherwise appropriated or expended. Gully v. Board of Supvrs., 167 Miss. 562, 147 So. 300 (1933).

Declaration to recover one-half of ad valorem road taxes collected by county prior to passage of law authorizing payment of such taxes due municipalities under previous law, must allege that taxes have not been paid to municipalities and have not been otherwise appropriated or expended. Gully v. Board of Supvrs., 167 Miss. 562, 147 So. 300 (1933).

6. Collection by state tax collector.

Where a municipality was diligently attempting to collect from the county sums owed to it under this section by reason of taxes collected for county road purposes on property within the municipality, which worked its own roads out of its own treasury, the state tax collector was without authority to intervene during the progress of such efforts on the part of the municipality and thus imposed upon the municipality the payment of a 20 percent fee to him for doing what the municipality was already in the reasonable, orderly and diligent process of doing for itself. City of Biloxi v. Gully, 187 Miss. 664, 193 So. 786 (1940).

State tax collector could bring such action since one-half of the ad valorem road taxes collected by the county and which it was obligated to pay to the municipalities therein was a "past due obligation." Gully v. Board of Supvrs., 167 Miss. 562, 147 So. 300 (1933).

State tax collector could sue to recover for use of municipalities one-half of ad valorem road taxes collected by county. Gully v. Board of Supvrs., 167 Miss. 562, 147 So. 300 (1933).

ATTORNEY GENERAL OPINIONS

The Board of Supervisors of a county and the governing authorities of a city within the county may enter into an agreement evidenced by an order on the minutes of both subdivisions authorizing the board of supervisors to assist the municipality by providing road equipment and/or employees and county fuel to repair or replace a bridge within the city limits. Robinson, Nov. 1, 1991, A.G. Op. #91-0779.

County tax collector may not withhold taxes collected by him for municipality. Meadows, March 27, 1992, A.G. Op. #92-0199.

A board of supervisors may contract for a term of years with a municipality to refund to such municipality more than one-half the road tax collections within such municipality required by this section when such contractual sum is based upon current and projected road tax collection, provided that as a condition of receipt of such refund, the contract provides that the municipality will make proper application therefor pursuant to § 65-15-23. Perkins, February 5, 1999, A.G. Op. #99-0023.

A county is not required to pay to a municipality any portion of the avails of a levy imposed for the purpose of retiring bonds issued for road purposes, the interest thereon, or a sinking fund therefor. Storey, August 20, 1999, A.G. Op. #99-0436.

The governing authorities of a municipality and a county board of supervisors have the authority to contract for road work in an amount less than the full refund amount due to the municipality. Provided the municipality receives the full value of the ½ refund amount, that amount may be divided into any combination of services and cash. Arledge, Mar. 26, 2004, A.G. Op. 04-0129.

The amount of road work performed or services furnished by a county within a town may exceed the town's half of road tax, and the town may request the county to perform all of its road work or regardless of the cost. The county may or may not agree to such request. Furthermore, an interlocal agreement is not required where the language of this section and § 65-7-85 authorize the board of supervisors of the county and the governing authorities of the town to enter into an agreement evidenced by an order on the minutes of both subdivisions. Povall, Jan. 28, 2005, A.G. Op. 04-0633.

§ 65-15-23. Payment of municipal refund.

Where a levy is made for road purposes as provided in Section 65-15-21, the tax assessor of the county shall set up a column on the assessment rolls of said county or district, which shall show the exact amount of the assessed valuation of the property within the corporate limits of a municipality which maintains its own streets and which pays the road taxes authorized to be levied under the aforesaid section. When said taxes are collected by the tax collector of the county, he shall isolate and separate the proportionate part of said taxes going to said municipality under the provisions of said section and shall cover same into the municipal treasury monthly, as provided by law.

Where any municipality may be entitled to a portion of any road tax under the laws in effect prior to the adoption of this section which has not yet been paid to it, such municipality shall be entitled to receive payment thereof on application to the board of supervisors of the county in which it is located, and the board of supervisors is hereby authorized to pay to such municipality its portion of such tax.

SOURCES: Codes, 1930, § 6418; Laws, 1942, § 8368; Laws, 1928, ch. 129; Laws, 1950, ch. 233, § 2.

JUDICIAL DECISIONS

1. In general.

Where a municipality was diligently attempting to collect from the county sums owed to it under this section by reason of taxes collected for county road purposes on property within the municipality, which worked its own roads out of its own treasury, the state tax collector was without authority to intervene during the progress of such efforts on the part of the municipality and thus imposed upon the municipality the payment of a 20 percent fee to him for doing what the municipality was already in the reasonable, orderly and diligent process of doing for itself. City of Biloxi v. Gully, 187 Miss. 664, 193 So. 786 (1940).

State tax collector could sue to recover for use of municipalities one-half of ad valorem road taxes collected by county, since one-half of the ad valorem road taxes collected by the county and which it was obligated to pay to the municipalities therein was a "past due obligation." Gully v. Board of Supvrs., 167 Miss. 562, 147 So. 300 (1933).

ATTORNEY GENERAL OPINIONS

There is no requirement that funds sent to the City by the County from collections of Road and Bridge taxes be placed in a separate fund. Jenkins, Dec. 19, 1997, A.G. Op. #97-0748.

A board of supervisors may contract for a term of years with a municipality to refund to such municipality more than one-half the road tax collections within such municipality required by § 65-15-21 when such contractual sum is based upon current and projected road tax collection, provided that as a condition of receipt of such refund, the contract provides that the municipality will make proper application therefor pursuant to this section. Perkins, February 5, 1999, A.G. Op. #99-0023.

§ 65-15-25. Authority to transfer surplus tolls to county road and bridge fund.

In any county where tolls collected for the use of a bridge or bridges are allocated to the payment of the bonds issued for the construction of said bridge, interest, sinking fund, and the expense of operating and maintaining said bridge or bridges, if the tolls so collected are more than sufficient to meet the payment of said bonds as they severally mature, the interest thereon, the sinking fund, and the expenses of operating and maintaining said bridge or bridges, the board of supervisors may, in their discretion, transfer to the county road and bridge fund any excess of tolls collected over and above the amount necessary to pay the maturing bonds, interest, sinking fund, and expenses of maintaining and operating said bridge or bridges.

SOURCES: Laws, 1932, ch. 184, § 1, eff from and after passage (approved May 16, 1932).

RESEARCH REFERENCES

Am Jur. 40 Am. Jur. 2d, Highways, Streets and Bridges §§ 680 et seq.

CHAPTER 17

County Road Officials

Article 1. County Road Commissioner 65-17-1
Article 3. County Road Accountant 65-17-101
Article 5. County Engineer 65-17-201

ARTICLE 1.

COUNTY ROAD COMMISSIONER.

SEC.
65-17-1. Establishment of county road department; appointment of county road manager; powers and duties of manager.
65-17-3. Compensation in certain counties.
65-17-5. Duties of commissioner.
65-17-7. Commissioner to report to supervisors.

§ 65-17-1. Establishment of county road department; appointment of county road manager; powers and duties of manager.

(1) This section, relating to the establishment of a county road department, the employment of a county road manager and prescribing the powers and duties of the county road manager, shall not be mandatory in any county which is not required to operate under a countywide system of road administration; provided, however, such county may, by order of the board of supervisors, adopt all or part of the procedures prescribed by this section.

(2) The board of supervisors of each county shall establish a county road department. The board of supervisors shall adopt the general policies to be followed in administration of the county road department and shall appoint as administrative head of the county road department a county road manager who shall be educated or experienced in the construction and maintenance of highways, bridges and other facets of county highway responsibilities. Provided, however, that in any county which, on July 1, 1988, employed two (2) county road managers each of whom managed an administrative division of the county for road construction and maintenance, the board of supervisors may continue to employ two (2) county road managers. The county road manager shall not be a member of the board of supervisors. The county road manager, under the policies determined by the board of supervisors and subject to the board's general supervision and control, shall administer the county road department, superintend the working, construction and maintaining of the public roads and the building of bridges in such county, and carry out the general policies of the board in conformity with the estimates of expenditures fixed in the annual budget as finally adopted by the board or as thereafter revised by appropriate action of the board. All requisitions for the purchase and repair of all equipment, heavy equipment, machinery, supplies, commodities, materials and services for the county road department shall be

prepared by the county road manager and submitted to the county department of purchasing for processing in accordance with the central purchasing system. The county road manager shall serve at the will and pleasure of the board of supervisors and may be removed from such position by a majority vote of the board.

(3) The county road manager shall receive such compensation, to be paid from the county road and bridge funds, as the board of supervisors shall determine. The county road manager, before entering upon his duties, shall give bond, with sufficient surety, to be payable, conditioned and approved as provided by law, in a penalty in such amount as may be approved by the board of supervisors, but not less than Fifty Thousand Dollars ($50,000.00).

(4) A county may appoint as county road manager the same person whom it has under the law employed as its county engineer for its state aid road system, provided that such county road manager is being compensated by the county for serving as county road manager and for all duties, if any, that he performs as county engineer by payment of an annual salary and not on the basis of a percentage of the cost of road projects.

(5) Nothing shall preclude one (1) person from serving two (2) or more counties as county road manager by agreement between such counties.

(6) Nothing in this section shall be construed to require new county personnel to be employed but, to the extent practicable, an existing county employee shall be appointed as the county road manager.

(7) The responsibility for construction and maintenance of all "local farm roads" (including bridges) as the same are defined in Sections 65-9-1 and 65-9-3, Mississippi Code of 1972, together with all functions not vested by law in the county state aid engineer in the construction and maintenance of state aid roads shall be vested in the county's road department.

(8) The county road manager each year shall prepare, or shall assist the county administrator (if one has been appointed) in the preparation of, a tentative road budget containing all proposed expenditures for the ensuing fiscal year for construction and maintenance of county roads and bridges and the operation of the county road department. Such tentative road budget shall be submitted to the board of supervisors for incorporation, with such modification as the board may adopt, in the county budget, as prescribed by law.

(9) The county road manager shall employ, subject to approval of the board of supervisors, such assistants and employees as may be necessary in conformity with the budget and county policies and procedure with respect to personnel and subject to approval of the board as to salary or other compensation to be paid. He shall have supervision and jurisdiction over personnel and assignments of personnel engaged in the work of the road department. He may purchase, lease or hire such equipment and purchase such materials and supplies as may be necessary for operation of the county road department in conformity with the budget, in accordance with the central purchase system and existing laws and subject to approval of the board as to price or rental. He shall have jurisdiction over the assignment of equipment needed in performance of the work of the county road department.

(10) The board of supervisors may, by a majority vote of the entire board, supersede any act of the road manager or change, modify or revoke any act which has been completed by the road manager, provided the change, modification or revocation does not constitute a breach of contract.

SOURCES: Codes, Hemingway's 1921 Supp. 7157d; 1930, § 6398; 1942, § 8346; Laws, 1920, ch. 276; Laws, 1928, ch. 157; Laws, 1952, ch. 223; Laws, 1960, ch. 209; Laws, 1966, Ex. Sess. ch. 29, § 1; Laws, 1986, ch. 458, § 44; Laws, 1988 Ex Sess, ch. 14, § 56; Laws, 1991, ch. 461 § 1, eff from and after passage (approved March 29, 1991).

Editor's Note — Section 48, Chapter 458, Laws of 1986, provided that § 65-17-1 would stand repealed from and after October 1, 1989. Subsequently, three 1989 chapters (341, 342, and 343) amended Section 48, Chapter 458, Laws of 1986, by deleting the date for repeal.

Cross References — Compensation of road commissioner in certain counties, see § 65-17-3.

Duties of commissioner, see § 65-17-5.

JUDICIAL DECISIONS

1. In general.
2. Agency relationship.

1. In general.

Court held that a Mississippi county road manager occupied a position where party affiliation was an appropriate requirement for the effective performance of the public office involved because roads in rural Mississippi were the political lifeblood of elected officials, and the public's view of the elected supervisors depended greatly on the road manager's performance and supervision of employees. Gentry v. Lowndes County, 337 F.3d 481 (5th Cir. 2003).

It is permissible under Code 1942 § 2939, for a county or a supervisor's district, which owns road machinery and equipment, to have the same repaired by employing labor for that purpose, and the law does not require that the employment of labor for repair work on road machinery shall be on competitive bids, following the usual advertisement of an intention to have such property repaired for use, or forbid a contract with a repairman until the next meeting of the board. Shook v. Carroll County, 210 Miss. 537, 49 So. 2d 897 (1951).

Declaration against member of board of supervisors and surety alleging that defendant under whose supervision, no road commissioner having been appointed, the road work of the district had been placed, left bridge which was being repaired in unsafe condition at night without warning signals, causing damage to plaintiff when he drove over bridge in automobile, was sufficient. State ex rel. Russell v. McRae, 169 Miss. 169, 152 So. 826 (1934).

2. Agency relationship.

Summary judgment was properly awarded to a county board of supervisors in plaintiffs' action to recover damages for injuries sustained after their vehicle collided with a mailbox on the shoulder of a road because although the board admittedly failed to personally inspect the road where the accident occurred, the county road management department, as an agent for the board under Miss. Code Ann. § 65-17-1(2), conducted an inspection of the road and, thus, satisfied the statutory requirements. Bryant v. Bd. of Supervisors, 10 So. 3d 919 (Miss. Ct. App. 2008).

ATTORNEY GENERAL OPINIONS

Statute evinces intent that road manager make determinations such as where county workers will appear to sign up for insurance, and what street or culvert workers will be repairing or constructing on any given day; statute also states that individual member may not countermand work orders of road manager. Fortenberry, May 10, 1990, A.G. Op. #90-0318.

County board of supervisors may not employ assistant road manager without individual having been recommended to position by county road manager. Colson, Feb. 16, 1994, A.G. Op. #93-1027.

Under Section 65-17-1, it is the county road manager who directs the actions of road employees and not the board of supervisors. Bradley, March 15, 1996, A.G. Op. #96-0085.

A member of the county board of supervisors may not physically operate county road equipment or personally perform any other work on road construction and maintenance. Bryant, November 7, 1998, A.G. Op. #98-0671.

There is no authority for an individual supervisor to supersede any activities of a county road manager; all statutory authority over a county road manager is reserved to the board of supervisors, and not to any one supervisor. Carter, Dec. 17, 1999, A.G. Op. #99-0681.

A board of supervisors, by a simple majority vote, may establish general policies for and exercise general supervision and control over the county road manager, must approve all hiring, firing and wages, and must approve the purchase price or rental amount for purchases and rentals by the county road manager; further, a board of supervisors may, by a majority of all members of the board, supersede, modify, amend, etc., any act of the county road manager unless such action by the board would result in a breach of contract. Carter, Dec. 17, 1999, A.G. Op. #99-0681.

There is no statutory authority for a road manager to abolish a personnel position that has been designated by the board of supervisors. Brooks, Mar. 26, 2004, A.G. Op. 04-0108.

A board of supervisors may require by policy and procedure either prior approval or subsequent approval of all employment decisions by the county road manager. Brooks, Mar. 26, 2004, A.G. Op. 04-0108.

A county road manager has the authority to set or change the working hours of the county road department without prior approval of the board of supervisors and to utilize money budgeted for the operation of the department to pay for such notice to be published. However, boards of supervisors are empowered to "supercede any act of the road manager or change, modify or revoke any act which has been completed by the road manager, provided the change, modification or revocation does not constitute a breach of contract." Hudson, Apr. 16, 2004, A.G. Op. 04-0160.

Which county roads require major maintenance is established in a four-year plan built on annual road inspections by the board of supervisors, and such policy is to be implemented by the county road manager. The board of supervisors may change or modify any action of the road manager by an official order approved by a majority vote of the board, reflected in the minutes, but no individual supervisor has the authority to advise or direct the road manager to perform major maintenance. White, March 23, 2007, A.G. Op. #07-00118, 2007 Miss. AG LEXIS 122.

§ 65-17-3. Compensation in certain counties.

In any counties lying in two levee districts through which the Yazoo River flows, traversed by U.S. Highway No. 49W and in which Mississippi Highways Nos. 12, 14, and 7 run, the board of supervisors is authorized, in its discretion, to compensate any such road commissioner of said county in an amount not to exceed Five Hundred Dollars ($500.00) per month.

In any counties bordering on the Pearl River, in which U.S. Highway No. 80 intersects Mississippi Highway No. 18, and having a population in excess of thirty-four thousand in the 1960 federal decennial census, the board of supervisors is authorized, in its discretion, to compensate any such road commissioner of said county in an amount not to exceed Four Hundred Dollars ($400.00) per month.

SOURCES: Codes, Hemingway's 1921 Supp. § 7157d; 1930, § 6398; 1942, § 8346; Laws, 1920, ch. 276; Laws, 1928, ch. 157; Laws, 1952, ch. 223; Laws, 1960, ch. 209; Laws, 1966, Ex. Sess. ch. 29, § 1, eff from and after passage (approved December 28, 1966).

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

§ 65-17-5. Duties of commissioner.

It shall be the duty of such commissioner to supervise the construction of such highways and their maintenance after the construction, and to see that the directions for such construction and maintenance are carried out, calling to his assistance, when necessary, the service of a competent civil engineer, which civil engineer shall receive for his services a reasonable compensation to be fixed by the board of supervisors, to be paid out of the funds arising from the proceeds of the sale of such bonds and the levy of such maintenance tax as provided by law.

SOURCES: Codes, Hemingway's 1917, § 7250; 1930, § 6399; 1942, § 8347; Laws, 1914, ch. 175.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Duty of road commissioner to post load limit notices on roads, see § 65-7-49.

Authority of road commissioner to take road building materials from adjoining land, see § 65-7-101.

§ 65-17-7. Commissioner to report to supervisors.

Such highway commissioner shall, from time to time as required by the board of supervisors, report to the board his acts and doings touching his official duties, and all of his acts shall be subject to the approval or rejection of the board of supervisors.

SOURCES: Codes, Hemingway's 1917, § 7251; 1930, § 6400; 1942, § 8348; Laws, 1914, ch. 175.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

ARTICLE 3.

COUNTY ROAD ACCOUNTANT.

SEC.
65-17-101. Supervisors may elect road accountant.
65-17-103. Estimates and reports.
65-17-105. Accountant to be purchasing agent.
65-17-107. Accountant to submit trial balance.

§ 65-17-101. Supervisors may elect road accountant.

The board of supervisors may elect a road accountant, whose salary shall be fixed by the board and who shall give bond, with sufficient surety, to be payable, conditioned and approved as provided by law, in a penalty not less than Fifty Thousand Dollars ($50,000.00). For the purpose of enabling the road accountant, in counties working their roads and building and repairing bridges on the unit system or countywide basis, to meet weekly payrolls and to pay for same each week or biweekly, the board of supervisors may advance to him at each regular monthly meeting, out of the road and bridge fund of the county, a sum not exceeding fifty percent (50%) of the amount of his bond. Said road accountant shall place said funds in the county depository to his credit as road accountant, to be checked on by him to meet weekly payrolls for labor, and said fund shall be a public fund and shall be secured as other public funds are secured. The road accountant shall report to the next meeting of the board his disposition of said money, including an itemized payroll for same, which payroll must be approved by the board of supervisors before another advance to him may be made. In the event the board finds any discrepancies in said payroll account, he shall be liable on his official bond for same; and the board of supervisors, in such event, shall not make further allowances to him until said discrepancies are corrected. It shall be the duty of the road accountant to pay all labor employed on the road and bridge work of the county, to pay transportation charges on supplies and material used in such road and bridge work, and all bills for repairs. Every three (3) months he shall take an inventory of all the personal property of the county used in said road and bridge work.

SOURCES: Codes, Hemingway's 1921 Supp. § 7259c; 1930, § 6401; 1942, § 8349; Laws, 1920, ch. 266; Laws, 1936, ch. 306; Laws, 1946, ch. 316; Laws, 1986, ch. 458, § 45; Laws, 2009, ch. 467, § 23, eff from and after July 1, 2009.

Editor's Note — Section 48, Chapter 458, Laws of 1986, provided that § 65-17-101 would stand repealed from and after October 1, 1989. Subsequently, three 1989 chapters (341, 342, and 343) amended Section 48, Chapter 458, Laws of 1986, by deleting the date for repeal.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Other duties of road accountant, see §§ 65-17-103 et seq.

§ 65-17-103. Estimates and reports.

The road accountant shall attend all meetings of the board of supervisors, and shall at each regular meeting submit to said board an estimate of the amount of money required to pay the said labor employed on the said road and bridge work, transportation charges, and repair bills. Said board shall examine said estimate and shall set aside for the current month a fund to be known as the "road labor" fund, which sum shall be placed to the credit of the said fund in the county depository, subject to the order of the road accountant; and said road accountant shall use the said fund to pay off the said labor and all freight bills. At each regular meeting of the board of supervisors the road accountant shall make a report to the said board, showing all disbursements by him and proper receipts therefor. The board of supervisors shall carefully audit the said report, and if they shall find any payment or payments or any disbursements so made by the road accountant to be illegal or improper, said board may deduct any and all such payments from the salary of the road accountant, or they may cause suit to be filed on his bond for the recovery of any such sum so illegally or improperly paid out by the road accountant.

SOURCES: Codes, Hemingway's 1921 Supp. § 7259d; 1930, § 7402; 1942, § 8350; Laws, 1920, ch. 266.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

§ 65-17-105. Accountant to be purchasing agent.

The road accountant shall be the purchasing agent of the county and, by and with the consent of the board of supervisors, shall purchase all materials, implements, and supplies used in such road and bridge work.

SOURCES: Codes, Hemingway's 1921 Supp. § 7259e; 1930, § 6403; 1942, § 8351; Laws, 1920, ch. 266.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

§ 65-17-107. Accountant to submit trial balance.

The road accountant shall keep a complete set of books, showing in detail all receipts and disbursements had or made by him. With every report made by him to the board of supervisors as hereinbefore required, he shall submit a trial balance of the said books, showing in detail all his transactions as such road accountant.

SOURCES: Codes, Hemingway's 1921 Supp. § 7259f; 1930, § 6404; 1942, § 8352; Laws, 1920, ch. 266.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

ARTICLE 5.

COUNTY ENGINEER.

SEC.	
65-17-201.	Authority to employ engineer.
65-17-203.	Duties of engineers.
65-17-205.	Salary of engineer.
65-17-207.	Control of engineer.
65-17-209.	Repealed.

§ 65-17-201. Authority to employ engineer.

[With regard to any county which is exempt from the provisions of Section 19-2-3, this section shall read as follows:]

The boards of supervisors of the several counties of the State of Mississippi are authorized and empowered at their discretion to employ, as county engineer, a civil engineer or person qualified to perform the duties of a county engineer, and such assistant engineers as may be necessary. On all projects for the construction or reconstruction of a bridge which will cost more than Five Thousand Dollars ($5,000.00), or for the construction or reconstruction of roads which will cost more than Five Thousand Dollars ($5,000.00) per mile, the employment of an engineer qualified under the chapter on engineers shall be obligatory, whether the work is being done by the county or by a separate district, and whether the work is to be done by contract or otherwise; however, in obligatory cases the employment may be for the particular work, rather than for a term.

[With regard to any county which is required to operate on a countywide system of road administration as described in Section 19-2-3, this section shall read as follows:]

The boards of supervisors of the several counties of the State of Mississippi are authorized and empowered at their discretion to employ, as county engineer, a civil engineer or person qualified to perform the duties of a county engineer, and such assistant engineers as may be necessary. On all projects for the construction or reconstruction of a bridge which will cost more than Twenty-five Thousand Dollars ($25,000.00), or for the construction or reconstruction of roads which will cost more than Twenty-five Thousand Dollars ($25,000.00) per mile, the employment of an engineer qualified under the chapter on engineers shall be obligatory, whether the work is to be done by contract or otherwise; however, in obligatory cases the employment may be for the particular work rather than for a term.

SOURCES: Codes, 1930, § 6405; 1942, § 8353; Laws, 1924, ch. 215; Laws, 1948, ch. 258; Laws, 1988 Ex Sess, ch. 14, § 57, eff from and after October 1, 1989.

Cross References — Registration of engineers generally, see §§ 73-13-1 et seq.

ATTORNEY GENERAL OPINIONS

County may hire county engineer under Miss. Code Sections 65-17-201 et seq., who may, if properly qualified, supervise state aid projects. Kilpatrick, Jan. 14, 1993, A.G. Op. #92-0994.

Miss. Code Section 65-17-201 requires counties to employ county engineer, depending on dollar amount of any particular construction project. Davis, May 24, 1993, A.G. Op. #93-0241.

§ 65-17-203. Duties of engineers.

The duties of the county engineer shall be to prepare all plans and estimates for the construction of bridges and superintend their construction, to make all estimates and plans of work to be done in the construction and maintenance of roads and superintend the work, to go over the report to the board of supervisors what work should be done to properly upkeep and maintain all roads and bridges in the county, and to check over and report to the board of supervisors on all estimates before payment by the board of supervisors of all work done on public roads.

The engineer may be required to furnish plans and estimates, and may superintend the construction of any road under the supervision of the state highway commission, if the highway commission may so elect. The purpose of this section is to provide a means whereby the board of supervisors and the highway commission may co-operate in such work, when same can be done, and reduce the expense of construction of any road.

SOURCES: Codes, 1930, § 6406; 1942, § 8354; Laws, 1924, ch. 215.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 65-17-205. Salary of engineer.

The compensation of the county engineer shall be determined by the board of supervisors of the county employing such engineer. The manner of making such compensation shall be spread annually upon the minutes of the board.

SOURCES: Codes, 1930, § 6407; 1942, § 8355; Laws, 1924, ch. 215; Laws, 1932, ch. 203; Laws, 1938, ch. 320; Laws, 1958, ch. 213; Laws, 1962, ch. 261; Laws, 1966, ch. 304, § 1; Laws, 1987, ch. 447, eff from and after passage (approved April 2, 1987).

§ 65-17-207. Control of engineer.

The employment and work of such engineer shall be under the control of the board of supervisors.

SOURCES: Codes, 1930, § 6408; 1942, § 8356; Laws, 1924, ch. 215.

§ 65-17-209. Repealed.

Repealed by Laws, 1983, ch. 469, § 10, eff from and after July 1, 1983. [Codes, 1942, § 2926-66; Laws, 1962, ch. 255, § 16]

Editor's Note — Former § 65-17-209 provided that no engineer employed by any county shall have any interest in contracts let under the provisions of §§ 19-9-51 through 19-9-77.

CHAPTER 18

Local System Road Program

Sec.
65-18-1. Short title.
65-18-3. Definitions.
65-18-5. Establishment of Local System Road Program.
65-18-7. Program administered by State Aid Enginer; powers and duties of State Aid Engineer.
65-18-9. State aid allocation to counties; local system bridge replacement and rehabilitation program allocation to counties; certification of adequate sufficiency rating for local system bridges; establishment of specific designs and standards to be followed by counties.
65-18-11. Conditions for eligibility.
65-18-13. Rights-of-way.
65-18-15. Contracts to be advertised for bidding.
65-18-17. Maintenance, repair and reconstruction of local system roads.

§ 65-18-1. Short title.

This chapter shall be known and may be cited as the “Local System Road Program.”

SOURCES: Laws, 2001, ch. 492, § 1, eff from and after July 1, 2001.

Cross References — State aid roads in counties, see §§ 65-9-1 et seq.
County highway aid, see §§ 65-9-1 et seq.
County funds for roads and bridges, see §§ 65-15-1 et seq.
Separate road districts, see §§ 65-19-1 et seq.
Eligibility of counties for expenditures of funds, see § 65-37-7.

§ 65-18-3. Definitions.

For the purposes of this chapter, the term “local system road” means a road that is included on the county road system as designated under Section 65-7-4 that (a) is functionally classified as a local rural road in accordance with policies on geometric design of highways and streets adopted and published by the American Association of State Highway and Transportation Officials; (b) provides access to the state aid system, the federal aid system or the designated state highway system; and (c) has an average daily traffic count of four hundred (400) vehicles or less. The term “local system road” includes all drainage related structures except bridges that are included on the National Bridge Inspection Inventory maintained by the Office of State Aid Road Construction. The term “local system road” does not include a road or highway on the designated state highway system or on the state aid road system.

SOURCES: Laws, 2001, ch. 492, § 2, eff from and after July 1, 2001.

Cross References — County road systems, see § 65-7-4.

§ 65-18-5. Establishment of Local System Road Program.

(1) There is established a Local System Road Program which shall be administered by the State Aid Engineer for the purpose of assisting the counties of this state in the construction, reconstruction and paving of local system roads.

(2) Routes on which projects are performed under this chapter are not eligible for inclusion on the state aid system except in accordance with the provisions of Section 65-9-1 et seq.

SOURCES: Laws, 2001, ch. 492, § 3, eff from and after July 1, 2001.

Cross References — State aid roads in counties, see §§ 65-9-1 et seq.

§ 65-18-7. Program administered by State Aid Enginer; powers and duties of State Aid Engineer.

The Local System Road Program shall be administered by the State Aid Engineer. In administering the program, the State Aid Engineer shall have the following powers and duties:

(a) To supervise the use of all funds made available for the purposes of this chapter for use on local system roads in the State of Mississippi;

(b) To allocate to each county that county's share of all monies made available under the provisions of this chapter but only when the county has complied with the provisions of this chapter and only when the county is eligible for the allocation of monies under the Local System Road Program;

(c) To keep and compile records of all expenditures on local system roads to which money is disbursed under the provisions of this chapter, which records must be kept separate and apart from other state aid records;

(d) To approve the construction of local system roads, including roadbeds, grades and drainage, before authorizing the release of funds under this chapter;

(e) To establish such rules and regulations as the State Aid Engineer determines as necessary to implement the provisions of the Local System Road Program; and

(f) To report to the Legislature, no later than January 1 of each year, on the Local System Road Program. Such report shall include what projects were approved and constructed, the number of miles constructed or improved and the cost per mile for such construction and improvement.

SOURCES: Laws, 2001, ch. 492, § 4, eff from and after July 1, 2001.

§ 65-18-9. State aid allocation to counties; local system bridge replacement and rehabilitation program allocation to counties; certification of adequate sufficiency rating for local system bridges; establishment of specific designs and standards to be followed by counties.

(1) The State Aid Engineer shall allocate annually the amount of the state aid road allocation of a county that is requested by such county for use in the construction, reconstruction and paving of local system roads in the county if the county has met the requirements of this chapter; provided, however, that the State Aid Engineer shall not allocate more than twenty-five percent (25%) of the annual state aid road allocation of a county for such purposes.

(2) The State Aid Engineer shall allocate annually the amount of the Local System Bridge Replacement and Rehabilitation Program allocation of a county that is requested by such county for use in the construction, reconstruction and paving of local system roads in the county if:

(a) The State Aid Engineer has certified, pursuant to Section 65-37-7, that all the local system bridges within the county have a sufficiency rating of greater than fifty (50) or that all such bridges within the county with a sufficiency rating of fifty (50) or less are currently under contract for replacement or rehabilitation; and

(b) The county has met the requirements of this chapter.

(3) The State Aid Engineer shall establish specific designs and standards to be followed by such counties in the construction, reconstruction and paving of local system roads. The specific designs and standards shall be based upon policies on geometric design of local rural roads, highways and streets adopted and published by the American Association of State Highway and Transportation Officials.

SOURCES: Laws, 2001, ch. 492, § 5, eff from and after July 1, 2001.

Cross References — Eligibility of counties for expenditures of funds, and conditions thereof, see § 65-37-7

§ 65-18-11. Conditions for eligibility.

(1) In order for a county to be eligible to utilize its Local System Bridge Replacement and Rehabilitation Program allocation or any of its state aid road funds for the Local System Road Program, a county must meet the following conditions:

(a) The county has employed a county engineer, together with such other technical assistance as is necessary to carry out the duties of this chapter, the same as provided under the provisions of Section 65-9-15, for its state aid road system and, through its official minutes, has authorized the county engineer to perform the necessary engineering services connected with the Local System Road Program. The county engineer shall prepare the necessary plans and designs for all construction projects, including state aid projects and projects provided under this chapter. He also shall provide engineering supervision for the construction of such projects and shall approve all estimate payments made on the projects. Engineering cost for any project performed under the Local System Road Program may be paid from any funds allocated to a county under the program; however, the maximum fee paid to an engineer shall not exceed twelve percent (12%) of the final construction cost. No such cost shall be reimbursed to the county before the letting of the project; and

(b) The county has presented a plan for the construction, reconstruction and paving of a local system road which plan has been made and approved by the county engineer of the county, showing the specific road or project to be improved, stating the condition of the existing roadbed, drainage and bridges and outlining the type of construction or reconstruction to be made and the designs and specifications therefor including the paving of the road and the sources of revenue to be used and the sources and types of material to be used thereon. The plan shall be presented to the State Aid Engineer for the initial approval of the beginning of a project to receive monies.

(2) After the initial approval of the plan and plans as specified in subsection (1)(b) of this section has been made by the State Aid Engineer, the county shall be eligible to receive all funds made available to the county under the Local System Road Program to be used exclusively for the construction, reconstruction or paving of the local system road. The project may be done either by contract or by using county equipment and employees. It shall be according to the original plan or any amendments thereto which have been approved by the State Aid Engineer. The board may use county equipment and employees if the construction can be accomplished at a more reasonable cost than can be achieved by contract.

SOURCES: Laws, 2001, ch. 492, § 6, eff from and after July 1, 2001.

Cross References — County engineer, see § 65-9-15.

§ 65-18-13. Rights-of-way.

All rights-of-way and adjustments for utilities necessary for Local System Road Program projects must be acquired or performed by the boards of supervisors in the manner provided by law for the acquisition of rights-of-way, including gift, purchase, deed, dedication and eminent domain; however, no part of the cost of such rights-of-way may be paid from Local System Road Program funds.

SOURCES: Laws, 2001, ch. 492, § 7, eff from and after July 1, 2001.

§ 65-18-15. Contracts to be advertised for bidding.

Contracts for the construction of local system road projects must be advertised and let by the board of supervisors of the county in the manner required by law. Before advertising for bids, plans and specifications covering the proposed work shall be prepared by the county engineer and filed in the chancery clerk's office of the county. Copies of the plans and specifications shall be subject to inspection during regular office hours and shall be made available to all prospective bidders upon such terms and conditions as may be required by the board and its county engineer.

SOURCES: Laws, 2001, ch. 492, § 8, eff from and after July 1, 2001.

§ 65-18-17. Maintenance, repair and reconstruction of local system roads.

It shall be the duty of the several boards of supervisors to properly maintain all local system roads in their respective counties after construction of any such roads under this chapter. It shall be the duty of the State Aid Engineer and his assistants to make annual maintenance inspections of completed projects, and such other periodic maintenance inspections as the State Aid Engineer shall deem necessary. If essential maintenance is not properly and regularly carried on, in the opinion of the State Aid Engineer, then notice thereof shall be given in writing to the board in default, and if such maintenance is not done and continued within sixty (60) days from date of such notice, then, and in such event, the State Aid Engineer may proceed to have done the necessary maintenance and repair work on such road and charge the same to any funds allocated to such county under the provisions of the Local System Road Program. If such failure to maintain continues, then such county shall be no longer eligible for monies under the Local System Road Program until proper maintenance is resumed by it, and notice of such withdrawal of local system road funds shall be duly given the State Treasurer; however, such ineligibility shall not affect payment under the Local System Road Program of progress or final estimates on contracts awarded before notice of such ineligibility.

Local system roads that have been hard surfaced through the use of local system road funds shall be eligible for local system road funds to provide one or more seal courses, as required. Local system roads in which the grading and drainage structures were constructed under the Local System Road Program and which have been subsequently hard surfaced by the county through the use of county funds under the supervision of the county engineer shall likewise be eligible for local system road funds to provide one or more seal courses as required, provided that the hard surfacing and underlying base were constructed in accordance with the then prevailing local system road standards and specifications. The county shall furnish the State Aid Engineer with sufficient engineering data, including borings and tests, if necessary, to substantiate the required thickness and quality of the base and surfacing. The correction of base defects and pavement breaks may be made part of the plans and contract documents for each sealing project.

Local system roads that were constructed in accordance with the then prevailing local system road standards and specifications shall be eligible for local system road funds for maintenance, repair and reconstruction, subject to the prior written approval of such work by the State Aid Engineer and subject to the work being completed in accordance with the prior written approval.

SOURCES: Laws, 2001, ch. 492, § 9; Laws, 2009, ch. 546, § 19, eff from and after passage (approved Apr. 15, 2009.)

CHAPTER 19

Separate Road Districts

Sec.
65-19-1. Creation of separate road districts.
65-19-3. Publication of notice.
65-19-5. Amount of bonds to be preliminarily estimated.
65-19-7. Hearing of objections.
65-19-9. Extension of road beyond the limits of district.
65-19-11. Consolidations and additions.
65-19-13. District may be abolished.
65-19-15. Previous obligations.
65-19-17. Aggrieved parties may appeal.
65-19-19. Elections.
65-19-21. Supervisors to provide for election.
65-19-23. Result of election.
65-19-25. General provisions for bonds.
65-19-27. District road commissioners.
65-19-29. Duties of commissioners.
65-19-31. Rejection of bids.
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65-19-35. Separate assessment of district.
65-19-37. Convict labor.
65-19-39. Disbursement of road fund.
65-19-41. Payment of contractors.
65-19-43. Acceptance and final settlement.
65-19-45. Final settlement with engineer.
65-19-47. Surplus funds loaned.
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65-19-51. General supervision.
65-19-53. Roads and bridges constructed and maintained.
65-19-55. Commissioners may turn over completed roads to county.
65-19-57. Transfer of roads not to affect obligations of district.
65-19-59. Public roads worked in separate districts.
65-19-61. Board of supervisors; powers and control.
65-19-63. Emergency repair of roads and bridges.
65-19-65. Roads connecting districts.
65-19-67. Supervisors to build all bridges and culverts.
65-19-69. Supervisors may acquire rights of way.
65-19-71. Road superintendent.
65-19-73. Duties of road superintendent.
65-19-75. Reports to be filed.
65-19-77. Purchases by road superintendent.
65-19-79. Provisions of general road laws to govern.
65-19-81. Public highways extending into municipalities.
65-19-83. Benefit district roads.
65-19-85. Assessment of benefit district lands.
65-19-87. Collection of benefit district taxes.
65-19-88. Construction and improvement of unpaved streets or roads within developed subdivision.

§ 65-19-1. Creation of separate road districts.

(1) Separate road districts, composed in whole or in part of one or of more than one supervisors' district, may be created and organized by the board of

supervisors of any county (a) upon its own initiative or (b) upon petition as follows:

(a) Whenever in the judgment of the board the public interest and the interest of the proposed district will be promoted by the creation and organization of a separate road district, the said board shall determine the boundaries of the district in such manner as the existing public highways, the territory tributary thereto, the engineering and topographical conditions, and other pertinent considerations render expedient, and shall accurately define the said boundaries by land numbers, by natural boundaries, by metes and bounds, or by combinations thereof, so long as said description may be clearly understood or would be sufficient as a description in a deed of conveyance. The board shall enter an order declaring its intention to create and organize a separate road district according to the boundaries so defined and made a part of said order.

(b) When a petition or petitions containing the boundaries of a proposed district, defined and bounded as hereinbefore required, signed by twenty per cent. of the qualified electors of the proposed district has been filed and presented to the board, requesting the creation and organization of a separate road district composed of the territory aforesaid, it shall be the duty of the board to make an order reciting the fact and to proceed thereupon with said proposal as is hereinafter provided.

(2) No road district shall hereafter be created which has an assessed value of property therein of less than Five Hundred Thousand Dollars ($500,000.00), according to the last completed assessment for taxation, but this limitation shall not apply to the consolidation of existing road districts.

SOURCES: Codes, Hemingway's 1921 Supp. § 7259s; 1930, § 6419; 1942, §§ 4327, 8369; Laws, 1920, ch. 271; Laws, 1932, ch. 235.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Issuance of county bonds and notes, generally, see § 19-9-1.

Issuance of road district bonds, see § 19-9-3.

Refunding bonds, see §§ 31-15-5, 31-15-9.

Local System Road Program to assist counties in the construction, reconstruction and paving of county roads not on the state aid road system, see §§ 65-18-1 et seq.

RESEARCH REFERENCES

Am Jur. 39 Am. Jur. 2d, Highways, Streets and Bridges § 13.

56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions §§ 575 et seq.

64 Am. Jur. 2d, Public Securities and Obligations §§ 50 et seq.

CJS. 39A C.J.S., Highways, §§ 144 et seq.

64 C.J.S., Municipal Corporations §§ 2030-2032 et seq.

§ 65-19-3. Publication of notice.

Whenever the proceeding has been initiated or proposed by either of the methods above provided, the said board shall cause notice to be published of the said proposal, which notice shall be sufficiently full to fairly apprise all persons in interest of the character and objects of said proposal. The notice shall fix a time and place when and where the board of supervisors will hear objections to the creation of said district and to the bringing of any of the defined territory within said district. Said notice shall be published in a newspaper of general circulation published in the county once a week for three weeks prior to the date of the hearing fixed in said notice; the first publication shall be not less than eighteen nor more than forty days prior to said date. If there be no newspaper published in the county in which the territory is located, the notice shall be published in some newspaper having a general circulation therein.

SOURCES: Codes, 1930, § 6420; 1942, § 8370.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

§ 65-19-5. Amount of bonds to be preliminarily estimated.

If the board of supervisors of its own motion initiates the proceedings, it shall make a careful preliminary estimate of the probable amount of the bonds of the proposed district that will be required to be issued by the district; and if the proposal be made by petition, then the petitioners shall make a like estimate and recite the same in their petition or petitions. The preliminary orders of the board in either case shall recite the said proposed or probable amount of the bonds to be issued, and the notice required under Section 65-19-3 shall contain a like recital. But said estimates, whether by the board or by the petitioners, shall be deemed no more than estimates and, if the district be created, shall not be controlling upon the amount of bonds subsequently to be issued, whether more or less, as future necessity may require.

SOURCES: Codes, 1930, § 6421; 1942, § 8371.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

§ 65-19-7. Hearing of objections.

At the time and place named in said notice, or at any other time or place not later than fifteen days thereafter which may be designated by said board, said board of supervisors shall meet and shall hear remonstrances or objections to the creation of said road district or to the bringing of any part of said territory within the district, shall pass upon and determine the sufficiency of the petition, the boundaries of the district to be created, or the territory to be placed therein, and shall make such orders as justice and equity shall require. The board of supervisors upon said hearing is hereby vested with full authority to decline to create the district or to exclude from said district any lands named in its previous order or in said petition which, in the discretion of said board, should not be included in said district. If it be determined to create the district, the order to that effect shall clearly define the territory to be included therein, which territory and district may be described by a reference to supervisors' districts or to fixed and known boundaries of the county or of any subdivision thereof, or by specifying the lands included by range, township, and section or lot, or by defining the metes and bounds. The said order shall designate said district or territory by some suitable name, or the district or territory may be designated "road district No. ________ of ________ county, or road district of ________ county."

If at the time of the said hearing twenty-five percent (25%) of the qualified electors of such proposed district petition against its creation or against the amount of the bonds proposed, then the district shall not be created unless at an election, ordered by the board of supervisors for the purpose, a majority of the qualified voters of such district, voting in such election, vote in favor of the creation of the district; the board of its own motion may order an election with like effect as if ordered under the foregoing proviso.

SOURCES: Codes, Hemingway's 1917, § 7192; 1930, § 6422; 1942, § 8372; Laws, 1918, ch. 220; Laws, 1926, ch. 225.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Appeal to courts by aggrieved parties, see § 65-19-17.

Provisions for elections, see §§ 65-19-19 et seq.

§ 65-19-9. Extension of road beyond the limits of district.

If the qualified electors petitioning for the creation and organization of a separate road district shall so desire, they may petition, in addition, that the proceeds of the sale of said bonds may be used to extend and build roads beyond the limits of such district and that a tax be levied on such district or districts to pay such bonds and maintain such roads, in which case it shall be the duty of the board, in publishing the notice as hereinbefore provided, to add thereto notice of the further purpose to use part of the proceeds of said bonds in building and maintaining roads in other territory, naming the said other territory; and to levy taxes for that purpose. In any election ordered therein, the further question shall be submitted to the electors, whether such roads are to be so extended or not, which shall be submitted as follows: "For the extension of roads into other districts," or "against the extension of roads into other districts." If said election result in favor of such action, determined and adjudicated in like manner by the election commissioners and board of supervisors, as required by law, then the said road commissioners shall, with the approval of the board of supervisors, have the power to extend said roads into other districts and pay for the same out of the proceeds of the sale of said bonds, and levy a tax to maintain the same on such district consenting thereto, as provided for in this chapter.

SOURCES: Codes, Hemingway's 1917, § 7164; 1930, § 6423; 1942, § 8373; Laws, 1914, ch. 176; Laws, 1920, ch. 277; Laws, 1932, ch. 243.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Construction and maintenance of roads connecting districts, see § 65-19-65.

§ 65-19-11. Consolidations and additions.

In like manner and under like conditions as mentioned in the preceding sections, (a) separate road districts heretofore or hereafter created may be consolidated into a single separate road district; (b) a separate road district may be created from parts of two or more districts heretofore or hereafter created, or from territory partly of such a district or districts and partly of territory not theretofore in any separate road district; and (c) suitable territory, whether within or without a separate road district, may be added to an adjoining separate road district. All the qualified electors residing in each of the component parts of the territory proposed to be consolidated or joined in or added, as well as of the proposed district when completed, shall have the right to be heard and to vote in any election held as a part of said procedure. If twenty-five percent (25%) of the qualified electors in any one of the component parts aforesaid of the proposed territory or a like percent of the entire territory so petition, the board shall order an election and, unless at said election the qualified electors of each of the said component parts counted separately and a majority of the entire proposed new district counted in the aggregate shall favor the proposal, it shall not be allowed and the proposal shall be ordered rejected.

SOURCES: Codes, Hemingway's 1921 Supp. § 7259t; 1930, § 6424; 1942, § 8374; Laws, 1920, ch. 271.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

RESEARCH REFERENCES

CJS. 39A C.J.S., Highways § 151.

§ 65-19-13. District may be abolished.

In like manner and under like conditions, the board of supervisors may by order abolish any separate road district and, thereupon, either add the said territory or a part thereof to another separate road district, or else leave the same, or the remainder, as a part of the general road territory of the county.

SOURCES: Codes, Hemingway's 1921 Supp. § 7259u; 1930, § 6425; 1942, § 8375; Laws, 1920, ch. 271.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Transfer of roads in separate road district to county supervisors, see §§ 65-19-55, 65-19-57.

RESEARCH REFERENCES

CJS. 39A C.J.S., Highways § 152.

§ 65-19-15. Previous obligations.

When a separate district has been established or abolished under Section 65-19-11 or Section 65-19-13, the said establishment or abolishment shall not release the territory or taxable property or persons of the former district or districts or parts thereof from assessments for the benefit and purposes of the original district or districts or parts thereof, nor impair nor in any wise release the property or persons in the new district so established from assessment and liability for the payment of the debts and obligations of the original district. In the respects last aforesaid, the creation of such new district as in the foregoing sections provided shall in no wise change the lines or territorial construction and integrity of the original district or districts or parts thereof from which such new district may be formed. In event a separate road district is consolidated or added to or otherwise established or abolished, as in the foregoing sections provided, out of territory embraced in whole or in part within any district that has outstanding bonds or loan warrants or other valid indebtedness, the board of supervisors shall annually levy a tax on the territory that originally issued said bonds or loan warrants or incurred the indebtedness, in accordance with the contract under which such indebtedness was created, until the same is fully paid.

SOURCES: Codes, Hemingway's 1921 Supp. § 7259v; 1930, § 6426; 1942, § 8376; Laws, 1920, ch. 271.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

§ 65-19-17. Aggrieved parties may appeal.

Any party aggrieved by the order of the board of supervisors creating a road district or bringing territory therein, as herein provided, may appeal to the circuit court from the order of said board of supervisors as now provided by law for appeals from the orders of boards of supervisors, or may sue at law or in equity for relief therefrom; however, no action or suit attacking the validity of the said order, or in any manner questioning the same, shall be begun after the expiration of sixty days from the date of making or entering the said order. From and after the expiration of said period of sixty days, if no suit be filed or appeal taken as herein provided, the determination of the board of supervisors as to said matters shall be final, and the territory defined in said order of said board of supervisors shall constitute a road and taxing district of the state to which is delegated the power hereinafter mentioned to levy general ad valorem taxes upon all of the taxable property of said district assessed for state and county taxes, for the purpose of constructing and maintaining or repairing roads and highways, or for the payment of the principal and interest of any bonds issued for that purpose in the manner provided by the general laws.

If under the foregoing sections an election is held and the majority vote in favor of the district proposed, the appeal to the circuit court hereinabove mentioned shall not lie or, if taken, shall be dismissed.

SOURCES: Codes, 1930, § 6427; 1942, § 8377; Laws, 1926, ch. 225.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

§ 65-19-19. Elections.

The elections hereinbefore mentioned shall be held and conducted according to the provisions of Chapter 5, Title 23, Mississippi Code of 1972, so far as applicable, the tickets to be used in said election to contain the following: "For the creation of the district" and, either below or above on the ticket, "Against the creation of the district."

SOURCES: Codes, Hemingway's 1917, § 7159; 1930, § 6428; 1942, § 8378; Laws, 1914, ch. 176; Laws, 1920, ch. 277.

Editor's Note — Chapter 5 of Title 23, being sections 23-5-1 et seq., referred to in this section, were repealed by Laws of 1986, ch. 495, § 335, effective from and after January 1, 1987. See §§ 23-15-1 et seq. for the new Mississippi Election Code.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Election for creation of road district, see § 65-19-7.

Election for consolidation of road districts or additions thereto, see § 65-19-11.

JUDICIAL DECISIONS

1. In general.

Petition for improvement of roads and bond issue election may not designate roads to be improved or control expenditure of bond proceeds. Board of Supvrs. v. Self, 156 Miss. 273, 125 So. 828 (1930).

Election commissioners held unauthorized to put on ticket for road bond issue additional or conditional matter and any such matter is surplusage. Board of Supvrs. v. Self, 156 Miss. 273, 125 So. 828 (1930).

§ 65-19-21. Supervisors to provide for election.

In any election held under the provisions of this chapter in respect to the creation of, or addition to, separate road districts, the board of supervisors shall have the power to fix the place and provide for holding the election by the qualified electors of such territory, whenever the voting precincts as fixed for general elections will not be convenient or suitable.

SOURCES: Codes, Hemingway's 1917, § 7167; 1930, § 6429; 1942, § 8379; Laws, 1914, ch. 176; Laws, 1920, ch. 277.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

§ 65-19-23. Result of election.

Such election shall be held so far as practicable in accordance with the laws regulating general elections in this state; however, in order to authorize the creation of such proposed road district, a majority of the qualified electors residing in such territory shall vote in favor of such creation. When the election commissioners of the county shall have received returns of said election and have declared the result thereof, they shall, after having canvassed the same, forthwith make returns of said election to the board of supervisors by filing with the board of supervisors a certificate stating the number of votes cast in favor of the creation, the number of votes cast against the creation, and the number of qualified electors residing in the territory proposed to be created into a road district. The number of qualified electors residing in said territory shall be determined at the meeting of the election commissioners first preceding said election, as required by Section 23-5-79, Mississippi Code of 1972. At its next meeting after it has received said returns, the board of supervisors shall adjudicate whether or not a majority of the qualified electors of the territory have voted in favor of the creation of said road district, from the findings of the election commissioners as herein required.

Should the result of such election show that it has carried in favor of the creation of the district by a majority vote of the qualified electors residing in the proposed district, then it shall be the duty of the board of supervisors to issue the bonds of such district in the necessary amount, not to exceed ten percent (10%) of the assessed value of all taxable property of the district. The amount within this limit shall be fixed by the commissioners hereinafter provided for, subject to the approval of the board of supervisors, such bonds to be issued and sold either all at one time or in installments from time to time as funds are needed for the construction of such highway or highways, in the discretion of the commissioners and the board of supervisors. Any county, supervisor's district, part of supervisor's district, or districts which have heretofore issued bonds in said county, supervisor's district, parts of supervisor's district, or districts for road purposes may, under the provisions of this chapter and in pursuance thereof, issue bonds in addition to those already issued, provided that the total amount of bonds for road purposes outstanding and to be issued shall not exceed ten percent (10%) of the assessed value of all the taxable property of the district.

SOURCES: Codes, Hemingway's 1917, § 7160; 1930, § 6430; 1942, § 8380; Laws, 1914, ch. 176; Laws, 1920, ch. 277; Laws, 1932, ch. 296.

Editor's Note — Section 23-5-79, referred to in this section, was repealed by Laws of 1986, ch. 495, § 335, effective from and after January 1, 1987. See §§ 23-15-1 et seq for the new Mississippi Election Code.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Mississippi Election Code, see §§ 23-15-1 through 23-15-1111.

§ 65-19-25. General provisions for bonds.

The bonds issued under authority hereof shall mature not later than twenty-five (25) years from the date of their issuance; shall bear interest at such rate or rates, provided that the bonds of any issue shall not bear a greater overall maximum interest rate to maturity than that allowed in Section 75-17-101, payable annually or semiannually, as the board of supervisors shall direct; shall be exempt from all taxes, and shall be payable in annual installments, the amount to be paid each year to be fixed by the board of supervisors when the bonds are issued. All such bonds, with interest coupons if any attached, shall be lithographed with suitable devices to prevent counterfeiting; shall be in denominations to be fixed by the board of supervisors; shall be registered by the clerk of the board of supervisors in a book to be kept for that purpose; shall be numbered as provided by the board of supervisors, and shall be signed by the president of the board and countersigned by the clerk, who shall impress the seal of the county upon each bond as it is issued. The coupons, if any, shall be lithographed with the facsimile signatures of the president and clerk of said board, and every such bond shall specify on its face the purpose for which it was authorized and the total amount authorized to be issued. Each bond shall be made payable to a person by name, or may be made payable to bearer without any name, such bonds to be entitled "Road bonds of ," describing by name or number the territory created and organized into a road district. Such bonds shall not be sold for less than their face value; and the board of supervisors of each county shall levy annually a special tax upon all the taxable property of the district to be used exclusively in paying the interest on the bonds and providing a sinking fund for their redemption.

Notwithstanding the foregoing provisions of this section, bonds referred to hereinabove may be issued pursuant to the supplemental powers and authorizations conferred by the provisions of the Registered Bond Act, being Sections 31-21-1 through 31-21-7.

SOURCES: Codes, Hemingway's 1917, § 7161; 1930, § 6431; 1942, § 8381; Laws, 1914, ch. 176; Laws, 1920, ch. 277; Laws, 1983, ch. 494, § 31; Laws, 1985, ch. 477, § 14, eff from and after passage (approved April 8, 1985).

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Issuance of county bonds and notes generally, see §§ 19-9-1 et seq.

Debt limitations, see § 65-19-1.

Limitation on the maximum interest rate to maturity on obligations issued under the provisions of this section, see § 75-17-101.

JUDICIAL DECISIONS

1. In general.

This section is controlled by Laws 1920, ch. 207, § 3, a later act enacted at the same session, as to fixing denomination of bonds. Board of Supvrs. ex rel. Bonneville & Burton Good Rds. Dist. v. Holley, 141 Miss. 432, 106 So. 644 (1926).

This section is prospective in operation. Rosenstock v. Board of Supvrs., 123 Miss. 175, 85 So. 91 (1920).

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 1 et seq.

§ 65-19-27. District road commissioners.

It shall be the duty of the board of supervisors in case the election shall result in favor of the creation of the district, at its next regular meeting or any subsequent meeting, to appoint three commissioners, who shall be qualified electors of the district and real estate owners therein, who shall hold office for a term of four years from the time of their appointment and until their successors are appointed by the board of supervisors, whose duty it shall be to have the management and supervision of the construction and maintenance of the roads built under the provisions hereof, subject to the approval of the board of supervisors, and for their services shall be paid their actual expenses, not exceeding one hundred dollars each per annum. The board of supervisors may remove any commissioner, for cause or at pleasure, at any time and fill the vacancy thereby caused; and the board may, at any time after the roads within a district have been constructed by the proceeds of bonds sold, discontinue the commissioners, proceed to administer the fiscal affairs of the road district in the manner authorized by law, and make tax levies without recommendation of the commissioners on all taxable property in such district or districts. The commissioners may employ an attorney, if necessary, and pay him a reasonable compensation.

SOURCES: Codes, Hemingway's 1917, § 7162; 1930, § 6432; 1942, § 8382; Laws, 1914, ch. 176; Laws, 1922, ch. 261; Laws, 1934, ch. 220.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

JUDICIAL DECISIONS

1. In general.

Commissioners of district included in larger district, in contest as to validity of bond issue of larger district, were entitled to counsel of their own selection if the law gave them the right to counsel. Jones v. Lincoln County, 112 Miss. 626, 73 So. 620 (1917).

§ 65-19-29. Duties of commissioners.

It shall be the duty of such commissioners, subject to the approval of the board of supervisors, to determine and fix what road or roads shall be constructed, or constructed and maintained, or maintained in the district out of the proceeds of the sale of bonds and the levy of taxes. It shall be their duty to let all contracts for the construction, or for the construction and maintenance, or for the maintenance of such roads in the manner provided by law for the letting of contracts for public work by the board of supervisors. It shall be their duty to employ a competent engineer to survey and lay out the road or roads in the district as they shall determine upon, whose duty it shall be to make an estimate of the cost of constructing and maintaining such highway or highways for each separate mile covered by such survey and to report the survey and estimate to said commissioners before contracts are let for the construction or for the construction and maintenance of such highway or highways. Said commissioners shall have the power to adopt or reject such survey and estimate and in the latter event to have another made. When adopted, it shall be their duty to report the same to the board of supervisors, whose duty it shall be to order the clerk of said board to file the same among the records of the office, spread the same on the minutes of the board, and make an order adopting such survey and estimate so reported and adopted by the commissioners. All of said acts of said commissioners shall be subject to ratification or rejection by the board of supervisors.

SOURCES: Codes, Hemingway's 1917, § 7162; 1930, § 6433; 1942, § 8383; Laws, 1914, ch. 176; Laws, 1922, ch. 261.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Invalidity of "hold harmless" clauses in public and private construction contracts, see § 31-5-41.

Closing of roads by highway commissioners, see § 65-7-53.

Inspection of road work by road commissioner before letting of contract, see § 65-7-105.

JUDICIAL DECISIONS

1. In general.

Contract made without compliance with provisions of this section was void. Ellis v. Tillman, 125 Miss. 678, 88 So. 281 (1921).

RESEARCH REFERENCES

CJS. 39A C.J.S., Highways § 157.

§ 65-19-31. Rejection of bids.

Where contracts are let upon competitive bids, if the commissioners deem the bids too high, they are authorized to reject all bids.

SOURCES: Codes, Hemingway's 1921 Supp. 7178g; 1930, § 6434; 1942, § 8384; Laws, 1918, ch. 170.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

§ 65-19-33. Special tax levied.

The public highway or highways so surveyed and adopted by such commissioners shall be constructed and maintained out of the proceeds of the aforementioned bonds, proceeds of such bonds to be used alone in their construction and maintenance. The board of supervisors shall levy an annual tax, on the recommendation of the commissioners, on all the taxable property in the district not exceeding three mills on the dollar, which shall be used to supplement the general fund of the county in maintaining said road or roads and the culverts, bridges, and levees therein. For the purpose of paying such bonds and interest and so maintaining said roads, the board of supervisors shall, at the time fixed by law, levy the tax for the same, and it shall be the duty of the county auditor to keep a separate account of such funds so raised from the other funds of the county; and it shall be the duty of the county depository, which shall be the treasurer of such funds and liable on its bond therefor, to keep a separate account thereof. All allowances against said special funds shall be made by the board of supervisors on the recommendation of the commissioners, and special warrants prepared for the purpose shall be issued against said funds.

SOURCES: Codes, Hemingway's 1917, § 7163; 1930, § 6435; 1942, § 8385; Laws, 1914, ch. 176; Laws, 1920, ch. 277.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Refunding to municipalities of certain road taxes, see § 65-15-21.

JUDICIAL DECISIONS

1. In general.

Supervisors in construction of road were not controlled by will or judgment of highway commission. Board of Supvrs. v. Callender, 128 Miss. 159, 90 So. 722 (1922).

§ 65-19-35. Separate assessment of district.

The tax assessor, when ordered so to do by the board of supervisors, shall make a separate assessment of all the taxable property of the district or part of districts or territory forming a road district. In making such assessment, it shall not be necessary for him to reassess the property in the road district, but he shall copy from the assessment rolls in use at the time, or mark and separate thereon, all the property and persons in the district or parts of districts forming a road district, so that the county tax collector, in collecting the taxes levied on such road district, may easily ascertain the property and persons situated therein.

SOURCES: Codes, Hemingway's 1917, § 7166; 1930, § 6436; 1942, § 8386; Laws, 1914, ch. 176; Laws, 1920, ch. 277.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Assessment of real and personal property, see §§ 27-35-15, 27-35-55.

§ 65-19-37. Convict labor.

Each separate road district shall receive a fair portion of the convict labor assigned to the roads of the county.

SOURCES: Codes, Hemingway's 1917, § 7170; 1930, § 6437; 1942, § 8387; Laws, 1914, ch. 176; Laws, 1920, ch. 277.

Cross References — Constitutional authority to work convicts on public roads, see Miss. Const., Art. 4, § 85.

Constitutional authority to employ under state supervision and the proper officers and employees of the state convicts on public roads or other public works, see Miss. Const. Art. 10, § 224.

Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Authority to work county convicts on county roads or other public county works, see § 47-1-19.

Working of certain roads by convicts on penitentiary farms, see §§ 47-5-129 and 47-5-131.

Working roads with convicts, see § 65-7-113.

§ 65-19-39. Disbursement of road fund.

The county auditor shall have prepared proper warrants for the disbursement of district road funds and shall issue such warrants when properly authorized by ordinance of the board of supervisors. All the costs and expenses of organizing such road district and of constructing, maintaining, and working the highways, roads, bridges, and culverts, except county bridges maintained by the county, shall be paid out of such fund.

SOURCES: Codes, Hemingway's 1917, § 7196; 1930, § 6438; 1942, § 8388; Laws, 1914, ch. 174.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Payments for public works by board of supervisors, see § 19-13-15.

Duty of county auditor to keep ledger accounts, see § 19-17-3.

§ 65-19-41. Payment of contractors.

The payment to the contractors for the construction of the roads adopted by said commission, when the roads are constructed or maintained by contract, shall be made by the board of supervisors on certificates issued by the engineer or superintendent and approved by the commission.

SOURCES: Codes, Hemingway's 1921 Supp. § 7178e; 1930, § 6439; 1942, § 8389; Laws, 1918, ch. 170.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

§ 65-19-43. Acceptance and final settlement.

The roads hereinbefore provided shall have been completed for a period of at least one month before the board of supervisors and the road commissioners shall finally accept the same and make final settlement therefor. Nor shall the board of supervisors allow any final payment to any contractor for the construction of any such road until an itemized statement shall be filed, showing in detail the amount that may be due for each separate mile, the number of yards hauled for each mile, and the amount of work completed for each mile.

SOURCES: Codes, Hemingway's 1917, § 7171; 1930, § 6440; 1942, § 8390; Laws, 1914, ch. 176; Laws, 1920, ch. 277.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

§ 65-19-45. Final settlement with engineer.

The board of supervisors shall retain fifteen percent (15%) of the amount due the engineer employed upon a percentage basis until the road constructed under his supervision shall have been finally accepted.

SOURCES: Codes, Hemingway's 1917, § 7172; 1930, § 6441; 1942, § 8391; Laws, 1914, ch. 176; Laws, 1920, ch. 277.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Methods of payment for public works generally, see § 19-13-15.

§ 65-19-47. Surplus funds loaned.

The commissioners are hereby authorized to loan out any surplus funds of the district, and where such loans are secured by real estate, they shall be made in the manner and under the terms and provisions of the laws now relating to the loan of funds of the sixteenth sections; or they may purchase the bonds or evidences of debts of this state or of any county, municipality, drainage or road district situated in the State of Mississippi, or notes or bonds of the United States, or accept same as security for loans therein.

SOURCES: Codes, Hemingway's 1921 Supp. § 7178h; 1930, § 6442; 1942, § 8392; Laws, 1918, ch. 170.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Investment of surplus funds by county, see § 19-9-29.

Investment of surplus funds by municipality, see § 21-33-323.

Investment of surplus school funds by municipality, see § 37-59-43.

§ 65-19-49. May borrow money.

The road commissioners of a separate road district, by and with the consent of the board of supervisors evidenced by ordinance duly passed, may borrow money in a sum or sums not greater in the aggregate than two percent (2%) of the assessed valuation of the real and personal property within such district. Such loans shall be evidenced by the loan warrant or warrants of such district, signed by the road commissioners thereof and countersigned by the president of the board of supervisors, to bear not more than six percent (6%) interest per annum, and to run not more than five years from the issuance thereof. Provision shall be made at the time of making said loans for the payment thereof at maturity out of the roads funds for said district.

SOURCES: Codes, Hemingway's 1917, § 7206; 1930, § 6443; 1942, § 8393; Laws, 1914, ch. 174.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

JUDICIAL DECISIONS

1. In general.

A Board of Supervisors is authorized to levy a tax on the property of a supervisors' district only and not on the property of the entire county for the special purpose of paying outstanding loan warrants issued by such district, the collective tax becoming part of the district road fund. Yazoo & Miss. V. Ry. v. Harvey, 188 Miss. 665, 196 So. 512 (1940).

This section seems to require the concurring judgment of the road commissioners and the board of supervisors as to the proprieties and necessities in connection with the issuance of indebtedness against the road districts; so where the consent of both the road commissioners and the board of supervisors is required, the latter alone could not issue tax anticipation notes to raise funds for the construction of a highway in a supervisors' district. Illinois Cent. R.R. v. Carroll County, 189 Miss. 206, 196 So. 242 (1940).

Issuance of tax anticipation notes to raise funds to construct a highway in a supervisors' district of the county under statutory provision applicable only to the issuance of such notes for county wide purposes was not validated by a statutory provision permitting issuance of such notes for an indebtedness against a road district with the concurring judgment of the board of supervisors and the road commissioners, and accordingly taxes collected to pay off such tax anticipation notes should be refunded. Illinois Cent. R.R. v. Carroll County, 189 Miss. 206, 196 So. 242 (1940).

Where the board of supervisors, proposing to borrow money in anticipation of taxes for the construction of a road in a supervisors' district of the county, gave notice under statutory provisions applicable only to the issuance of tax anticipation notes for county wide purposes, and did not notify the taxpayers of their purpose to issue the notes under a statute providing for their issuance when consented to by both the road commissioners and the board of supervisors, taxes collected therefor should be refunded. Illinois Cent. R.R. v. Carroll County, 189 Miss. 206, 196 So. 242 (1940).

§ 65-19-51. General supervision.

The road commissioners shall have general direction and supervision over the highways, bridges, and culverts of their district and the laying out, constructing, working, and maintenance of the same.

SOURCES: Codes, Hemingway's 1917, § 7198; 1930, § 6444; 1942, § 8394; Laws, 1914, ch. 174.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

General supervision by supervisors over highways, see § 65-7-115.

Control over highways by board of supervisors, see § 65-19-61.

§ 65-19-53. Roads and bridges constructed and maintained.

When the funds arising from the road district bonds shall have been expended in the construction of roads and the contracts for construction of roads have been completed, then the road engineers, by and with the consent of the board of supervisors, are hereby authorized and empowered to purchase teams, implements and material, employ labor, work said roads and build bridges, and may do all things necessary to be done to work, maintain and improve the roads and build bridges, as herein provided; but all contracts for material and supplies shall be made according to state law governing public purchases, as provided in Sections 31-7-1 et seq., and all labor shall be employed by and under the direction of said engineers, by and with the consent of the board of supervisors. If the road district be composed of only a part of a supervisors district and the principal of the bonds issued does not exceed Fifty Thousand Dollars ($50,000.00), the road engineers, by and with the consent of the board of supervisors, are hereby authorized and empowered, in their discretion, to purchase and hire teams, implements and material and employ labor to build and work said roads and build bridges, and may do all things necessary to be done to construct, work, maintain and improve the roads and build bridges, as herein provided; but all contracts for material and supplies shall be made on and after competitive bids for the same, except as otherwise provided by law, and all labor shall be employed by and under the direction of said engineers, by and with the consent of the board of supervisors. The board of supervisors may use any teams and implements which it owns to assist on the roads of such district; and the like authority may be granted by the board for the maintenance of the roads, as to those not under construction, during the period when the roads or some of them are being constructed.

SOURCES: Codes, 1930, § 6445; 1942, § 8395; Laws, 1928, ch. 144; Laws, 1980, ch. 440, § 26, eff from and after January 1, 1981.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Methods of construction and maintenance of highways, see § 65-7-95.

Duty owed by supervisors to build bridges and culverts in separate road districts, see § 65-19-67.

Road superintendent, see § 65-19-71.

Improvement by counties of highways extending into municipalities, see § 65-19-81.

§ 65-19-55. Commissioners may turn over completed roads to county.

When the funds raised in any separate road district by bond issue have been expended and the contracts for road construction have been completed under the methods of building roads authorized by law, it shall be lawful for the road commissioners of any such road district, by and with the consent of the board of supervisors, to turn over to the county in which such road district is situated the roads so constructed. It shall then become the duty of the board of supervisors of such county to maintain and keep up such roads in place and stead of and in the same manner as the road commissioners of such district, and manage in place of said commissioners all of the fiscal affairs of said road district. The funds of each district shall be kept separate and applied to the district in which it was collected.

SOURCES: Codes, Hemingway's 1917, § 7239; 1930, § 6446; 1942, § 8396; Laws, 1914, ch. 178.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Abolishment of separate road districts, see 65-19-13.

JUDICIAL DECISIONS

1. In general.

In order to justify the expenditure of a county bond issue on separate road district roads, it is necessary that said road district or districts be first turned over to the county under the authority of §§ 8396, 8397, Miss Code of 1942. Seavey v. Lincoln County, 126 Miss. 353, 88 So. 771 (1921).

§ 65-19-57. Transfer of roads not to affect obligations of district.

Such transfer shall in no way release any such road district from any of the obligations of its bond issue, nor obligate the county in any way to assume any responsibility for the same.

SOURCES: Codes, Hemingway's 1917, § 7240; 1930, § 6447; 1942, § 8397; Laws, 1914, ch. 178.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Abolishment of separate road districts, see § 65-19-13.

§ 65-19-59. Public roads worked in separate districts.

All the public roads of any separate road district, or parts thereof, shall be worked by contract, if the board of supervisors of such county so elect, by an order entered to that effect on its minutes.

SOURCES: Codes, Hemingway's 1917, § 7169; 1930, § 6448; 1942, § 8398; Laws, 1914, ch. 176; Laws, 1920, ch. 277.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Methods of construction and maintenance, see § 65-7-95.

§ 65-19-61. Board of supervisors; powers and control.

The board of supervisors of the county in which a road district organized under this chapter is situated shall have plenary power of supervision and control over all of the official acts of the road commissioners and the road superintendent, and shall refuse to ratify or confirm any contract or report of any action of such commissioners or superintendent, when the same is reported to them, which is not for the best interest of such district. They shall require the letting of contracts and the purchase of teams, materials, lumber, supplies, and all other property for the use of the district to be made after advertisement and competitive bidding when such method is deemed likely to best subserve the interest of the district and be most economical.

SOURCES: Codes, Hemingway's 1917, § 7203; 1930, § 6449; 1942, § 8399; Laws, 1914, ch. 174.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Duties and powers of road commissioners, see § 65-19-51.

§ 65-19-63. Emergency repair of roads and bridges.

The said commissioners maintaining the roads may, in case of emergency, repair such roads and bridges and keep the same in a proper state of repair without waiting until due advertisement shall be made; however, the amount so expended by them shall not in any one instance exceed the sum of Two Hundred Fifty dollars ($250.00).

SOURCES: Codes, Hemingway's 1917, § 7176; 1930, § 6450; 1942, § 8400; Laws, 1914, ch. 176; Laws, 1920, ch. 277.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Prohibition against making of contracts in vacation by board of supervisors except in case of emergency, see § 19-13-11.

§ 65-19-65. Roads connecting districts.

The boards of supervisors of the several counties upon request of a separate road district are hereby authorized to cooperate in the construction and maintenance of any public road connecting two such districts, and may, in their discretion, appropriate and expend such district road funds for such purpose in such an amount as may appear to be for the best interest of the respective districts.

SOURCES: Codes, 1942, § 8401; Laws, 1938, ch. 322.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Extension of road beyond limits of district, see § 65-19-9.

§ 65-19-67. Supervisors to build all bridges and culverts.

It shall be the duty of the boards of supervisors to build all bridges and culverts in districts coming under this chapter, the cost of which shall be paid out of either the county fund or the proceeds from the sale of bonds of said separate road district, in the discretion of the board of supervisors.

SOURCES: Codes, Hemingway's 1917, § 7177; 1930, § 6451; 1942, § 8402; Laws, 1914, ch. 176; Laws, 1920, ch. 277; Laws, 1932, ch. 176.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Construction and maintenance of separate road district roads and bridges generally, see § 65-19-53.

JUDICIAL DECISIONS

1. In general.

Statutes were construed as requiring construction of culvert from district and not bridge fund, the words "bridge" and "culvert" not being synonymous. Williamson v. Hossley, 127 Miss. 505, 90 So. 184 (1922).

Supervisor's failure to use certain fund did not invest highway commissioners or taxpayers with right to recover money paid from special fund. Shell v. Monroe County, 125 Miss. 562, 88 So. 162 (1921).

§ 65-19-69. Supervisors may acquire rights of way.

The board of supervisors are authorized to acquire rights of way for the roads proposed to be constructed in said district, in the manner now prescribed by law for the acquisition of the rights of way for roads. Such rights of way shall be of necessary width, and if it be deemed necessary to acquire rights of way for such roads in excess of thirty feet, then the board of supervisors is authorized to acquire same up to any width deemed by them to be necessary for such road.

SOURCES: Codes, Hemingway's 1917, § 7182; 1930, § 6452; 1942, § 8403; Laws, 1916, ch. 174.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Laying out of roads, see § 65-7-57.

Damages for land taking, see § 65-7-61.

Judicial review of proceedings in laying out public roads and assessing damages therefor, see § 65-7-67.

Eminent domain powers of board of supervisors generally, see § 65-7-89.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

§ 65-19-71. Road superintendent.

There may be selected by the road commissioners, subject to the confirmation of the board of supervisors, a competent road superintendent, whose compensation shall be fixed by the board of supervisors, who shall hold his office for one year unless sooner removed, and who shall give a good and sufficient bond for the faithful performance of his duties. Such superintendent shall work under the direction of the road commissioners and may require any or all directions given him by the commissioners to be in writing. He shall give his whole time to the working of the roads in the district except when the commissioners, on account of weather or other conditions, may direct him otherwise. All labor employed on the roads in the district shall be employed by the superintendent and shall be under his control and direction, but the wages paid or agreed to be paid such labor shall be subject to revision and correction by the road commissioners. The superintendent shall file each month with the road commissioners a payroll showing the name of each laborer, the number of days each worked, and the amount due him. When this payroll shall have been approved by the commissioners and transmitted to the board of supervisors and approved by them, warrants on the road fund of the district shall be issued in accordance therewith.

SOURCES: Codes, Hemingway's 1917, § 7199; 1930, § 6453; 1942, § 8404; Laws, 1914, ch. 174.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Duties and powers of road commissioners generally, see § 65-19-51.

Duties of road superintendent, see § 65-19-73.

Reports by road superintendent, see § 65-19-75.

Purchases by road superintendent, see § 65-19-77.

§ 65-19-73. Duties of road superintendent.

The road superintendent shall have the custody, care, and control of all the teams, machinery, materials, supplies, and any and all property owned or hired by the district and used in working the road. It shall be his duty to care for and preserve the same, and he and his bondsmen shall be responsible for the proper care and safekeeping of such property and the economical use of the supplies and materials. He shall make a monthly report to the commissioners, which shall be forwarded by them with their recommendations or criticisms to the board of supervisors. Such report shall be a complete inventory of such property, showing the present number, amount, and condition of such property and what was used since his preceding report.

SOURCES: Codes, Hemingway's 1917, § 7200; 1930, § 6454; 1942, § 8405; Laws, 1914, ch. 174.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Filing of road superintendent's reports, see § 65-19-75.

§ 65-19-75. Reports to be filed.

The reports of the road commissioners and the road superintendent shall be kept on file by the clerk of the board of supervisors and shall be open to inspection of any resident or taxpayer of such road district.

SOURCES: Codes, Hemingway's 1917, § 7204; 1930, § 6455; 1942, § 8406; Laws, 1914, ch. 174.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

§ 65-19-77. Purchases by road superintendent.

The road superintendent shall have the power to purchase nails, lumber, tools, and other things necessary, where the need for the same is immediate and the value of said purchase does not exceed Fifty Dollars ($50.00). In cases of emergency he shall have power to contract for the immediate repair of a bridge, causeway, culvert, or a bad place in the road, provided such contract is not for a sum greater than Fifty Dollars ($50.00) and the need of the repair immediate and urgent. Such purchases and contracts shall be subject to ratification by the road commissioners and the board of supervisors.

SOURCES: Codes, Hemingway's 1917, § 7201; 1930, § 6456; 1942, § 8407; Laws, 1914, ch. 174.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Methods of construction of highways generally, see § 65-7-95.

Construction and maintenance of roads and bridges under road commissioners, see § 65-19-53.

§ 65-19-79. Provisions of general road laws to govern.

All the provisions of law in respect to roads and bridges, so far as applicable and where not in conflict with the special provisions in respect to separate road districts, shall govern in said road districts.

SOURCES: Codes, Hemingway's 1917, § 7178; 1930, § 6457; 1942, § 8408; Laws, 1914, ch. 176; Laws, 1920, ch. 277.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

§ 65-19-81. Public highways extending into municipalities.

Where any public highway being constructed, improved, or maintained by any separate road district shall run or extend into or through any incorporated municipality within the said district, such highway may be constructed, improved, and maintained the same within as without the corporate limits of said municipality. With the consent of and in conjunction with the road commissioners, the said municipality may, out of its own funds, add such street crossings or make improvements, such as grading, culverts, graveling, paving, or other improvements, as it may desire; the mayor and board of aldermen shall, by an order spread upon their minutes, consent for the work to be done by the commissioners. This section shall not be construed as any limitation upon those sections of this title in reference to state highways.

SOURCES: Codes, Hemingway's 1917, § 7179; 1930, § 6458; 1942, § 8409; Laws, 1914, ch. 255.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Co-operation between counties and municipalities in upkeep of roads, see § 65-7-79.

JUDICIAL DECISIONS

1. In general.

Municipality cannot surrender duty of keeping streets, alleys, and sidewalks in reasonably safe conditions. Town of Senatobia v. Dean, 157 Miss. 207, 127 So. 773 (1930).

City and county may agree on paving highway maintained by county through city limits. City of Laurel v. Fox, 154 Miss. 755, 122 So. 484 (1929), modified on suggestion of error, 154 Miss. 762, 124 So. 73 (1929).

County and municipality, excavating or lowering grade of street in construction of highway, were liable for damages to property abutting thereon. Tishomingo County v. McConville, 139 Miss. 589, 104 So. 452 (1925).

Municipality must keep streets in reasonably safe condition for travel and is not relieved of such duty by this section. Atkinson v. Town of Decatur, 131 Miss. 707, 95 So. 689 (1923).

Municipality cannot escape liability for injury by defective bridge on streets by reason of assumption of jurisdiction thereover by county officers. Atkinson v. Town of Decatur, 131 Miss. 707, 95 So. 689 (1923).

§ 65-19-83. Benefit district roads.

Whenever the owners of not less than one-half of the land bordering on or adjacent to any section of road established shall petition for a survey and estimate of the cost of building the road in a substantial and permanent manner of stone, gravel, chert, slag, brick, a combination of such material, or of any material equally durable and economical, the board may cause a survey and estimate to be made by a licensed civil engineer. Whenever thereafter the petitioners shall present to the board a map or description of the land which in their opinion would be directly benefited by the construction of such road, together with the written requests of the owners of not less than three-fifths of such land asking that all lands so benefited be assessed in proportion to the benefit conferred to pay one-third of the cost of construction, the board may levy and collect a special tax on such lands sufficient to pay one third of the cost thereof. Such lands shall be known as the benefit district of such section of road.

SOURCES: Codes, 1906, § 365; Hemingway's 1917, § 3738; 1930, § 6459; 1942, § 8410; Laws, 1902, ch. 145.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Assessment of benefit district roads, see § 65-19-85.

Collection of benefit district taxes, see § 65-19-87.

Construction and improvement of unpaved streets or roads within developed subdivisions upon petition of lot owners, see § 65-19-88.

ATTORNEY GENERAL OPINIONS

A board of supervisors of a countywide road system may not agree to a cost sharing arrangement with non-subdivision owners similar to that permitted by this section for separate road district counties. Brown, Oct. 24, 2003, A.G. Op. 03-0477.

§ 65-19-85. Assessment of benefit district lands.

The board, in assessing the benefits derived by any land in such district, shall consider only its proximity to the road and its market terminus. No benefit assessment shall be made on any lands when the distance between it and the nearest point on the road is greater than three tenths of the distance from such point on the road to the market terminus of the road, and no benefit assessment shall be made on any land more than three and one-half miles from the road. Any subdivision of a section of land containing forty acres, more or less, for the purposes of the benefit assessment may be included in such district if one fourth thereof is within the lines of the district. The board may collect from a benefit district an amount equal to One Thousand Dollars ($1,000.00) for each lineal mile of road constructed therein, and no more, except interest on the amount that may be expended twelve months or more in advance of the collection of any tax. The board shall not undertake the construction of any road when the estimate indicates that the total cost will exceed Thirty-five Hundred Dollars ($3,500.00) per mile.

SOURCES: Codes, 1906, § 366; Hemingway's 1917, § 3739; 1930, § 6460; 1942, § 8411.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Construction and improvement of unpaved streets or roads within developed subdivisions upon petition of lot owners, see § 65-19-88.

§ 65-19-87. Collection of benefit district taxes.

The board shall provide for the collection of taxes from the benefit district in such annual installments as it may determine, extending over not more than fifteen years, and may borrow money in advance of the collection of such taxes, in which event an amount sufficient to pay the annual interest shall be collected in addition to the principal. The taxes so assessed and levied shall be a lien upon the land and be collected at the same time and in the same manner that state and county taxes are collected. A separate assessment roll shall be provided by the board, and the assessor shall assess the lands in each benefit district separately, together with the benefit tax assessed thereon. He shall also mark in red ink on the general assessment roll the particular lands the benefits of which have been assessed.

SOURCES: Codes, 1906, § 367; Hemingway's 1917, § 3740; 1930, § 6461; 1942, § 8412.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Collection of funds for roads and bridges, see §§ 65-15-1 et seq.

Construction and improvement of unpaved streets or roads within developed subdivisions upon petition of lot owners, see § 65-19-88.

§ 65-19-88. Construction and improvement of unpaved streets or roads within developed subdivision.

(1) Whenever the owners of not less than one-half (½) of all lots bordering on any unpaved, dedicated public street or road within a developed subdivision located outside the boundaries of any incorporated municipality of a county petition for a survey and estimate of the cost of building and paving the street or road in a substantial and permanent manner of asphalt, blacktop, concrete or other such material equally durable, the board may cause a survey and cost estimate thereof to be made by a licensed civil engineer. Thereafter, if at least three-fifths (⅗) of such landowners sign and file a petition with the board of supervisors, along with a map or description of the lots bordering such street or road and designating the owners of all lots bordering thereon, requesting such street or road to be paved with the costs thereof to be charged or assessed against the owners of such lots bordering thereon, the board of supervisors may proceed to the paving and permanent construction of such street or road. The entire costs of paving and permanently constructing such street or road within the subdivision shall be paid by the owners of the lots bordering on the street or road so improved within the subdivision only by either, at the option of each such lot owner, a lump sum, one-time payment or by a special tax imposed by the county on the lots sufficient to pay such lot owner's proportionate share of the total costs. A lot owner's share of the total costs for building and improving such street or road shall be determined according to the proportion which the number of lineal feet of a lot owner's lot which borders on

the improved street or road bears to the total number of lineal feet of improved street or road.

(2) If one or more lot owners elect to pay their share of the costs of improving a street or road under subsection (1) of this section by means of a special tax on their lots, then the board shall provide for the collection of taxes from the lot owners thereof in such annual installments as it may determine, extending over not more than twenty (20) years, and may borrow money in advance of the collection of such taxes, in which event an amount sufficient to pay the annual interest shall be collected in addition to the principal. The taxes so assessed and levied shall be a lien upon the lots and be collected at the same time and in the same manner that state and county taxes are collected. A separate assessment roll shall be provided by the board, and the assessor shall assess the lots of each lot owner separately, together with the special tax assessed thereon. He shall also mark in red ink on the general assessment roll the particular lots which have been so assessed.

(3) The provisions of this section shall not be construed as amending or repealing the provisions of Sections 65-19-83 through 65-19-87, but shall be supplemental and additional to the provisions contained therein.

SOURCES: Laws, 1989, ch. 497, § 1, eff from and after July 1, 1989.

ATTORNEY GENERAL OPINIONS

If one person owns five of twenty-two lots, that person gets five votes pursuant to Miss. Code Section 65-19-88. Jones, Jan. 25, 1993, A.G. Op. #92-1017.

When second sentence of Miss. Code Section 65-19-88(1) refers to "three-fifths of such landowners", it means three-fifths of owners of all lots bordering on unpaved street; it does not mean three-fifths of one-half of owners, as referred to in first sentence of Miss. Code Section 65-19-88(1). Jones, Jan. 25, 1993, A.G. Op. #92-1017.

Local board has discretion to require greater number of lot owners to sign petitions than is required by Miss. Code Section 65-19-88, since that statute is couched in terms of language, such as" the board may cause a survey" and "the board of supervisors may proceed". Jones, Jan. 25, 1993, A.G. Op. #92-1017.

Statute provides only that three-fifths of all landowners of lots bordering unpaved street file and sign petition to request board of supervisors to pave road; it does not require that lot owners of all roads in subdivision must agree. Jones, Jan 20, 1994, A.G. Op. #93-0861.

The board may not mix the provisions of Section 17-21-51 and 65-19-88 to borrow money to pave the roads or streets within a subdivision under the authority and procedures established by Section 65-19-88. Sherard, May 17, 1995, A.G. Op. #95-0209.

Under Section 65-19-88, a board may not increase the percentage of landowners required to sign and file a petition calling for the paving of a public street to one hundred percent. Sherard, May 17, 1995, A.G. Op. #95-0209.

Section 65-19-88 authorizes a county board of supervisors to borrow money in advance of the collection of taxes for the improvement of a street or road within a subdivision from the land owners bordering such street or road. Lauderdale, June 15, 1995, A.G. Op. #95-0395.

The costs of improvements to unpaved roads within developed subdivisions shall be assessed upon a lineal footage basis and not equally per unit parcel. Lauderdale, March 13, 1998, A.G. Op. #98-0134.

Interest upon obligations of a county incurred pursuant to the statute are exempt from income taxation by the State of

Mississippi. Sherard, July 24, 1998, A.G. Op. #98-0436.

Subdivision owners whose lots adjoin private gravel roads may not use the provisions of subsection (2) of this section to share the paving costs by means of a special tax. Brown, Oct. 24, 2003, A.G. Op. 03-0477.

CHAPTER 21

Bridges; General Provisions

Sec.
65-21-1. Width of bridges and culverts.
65-21-3. Repealed.
65-21-5. Illumination of bridges.
65-21-7. Toll bridges and ferries.
65-21-9. Bond of toll bridge and ferry keepers.
65-21-11. Board of supervisors may purchase privately owned bridges.
65-21-13. Damages for taking private bridges.
65-21-15. Purchase of toll bridge for free operation.
65-21-17. Bonds to maintain toll-free bridge.
65-21-19. Bridges connecting districts.
65-21-21. Bond issue for bridges connecting districts.
65-21-23. Bridges over rivers at county boundaries.
65-21-25. Bridges at intersection of river flowing from one county to another.
65-21-27. Bridges within municipalities.
65-21-29. Supervisors to finance municipal bridges.

§ 65-21-1. Width of bridges and culverts.

All culverts hereafter built, rebuilt, or placed in any public road in this state shall be not less than the full width of the crown of the roadway, and shall have guide or warning posts on either side. All bridges hereafter built, rebuilt, or placed in any public road of this state shall be built the full width of the crown of the roadway where the same is sixteen feet wide or less, and on roads having a greater width than sixteen feet the bridges shall be not less than sixteen feet wide; and all bridges hereafter built or rebuilt shall be built with banisters on either side. This section shall not apply to temporary bridges and culverts on detours; and all public highways in this state within the area of, or contingent to, any national reforestation project, which have been or may be taken over, constructed, or reconstructed by this department of the national government, may have bridges or culverts the width of said highways, but not less than twelve feet.

SOURCES: Codes, 1930, § 6311; Laws, 1942, § 8420; Laws, 1926, ch. 223, 1930, ch. 153; Laws, 1934, ch. 221.

Cross References — Payment of damages caused by defective bridges and highways, see §§ 19-13-51, 19-13-53.

Penalty for damaging bridges, see § 51-1-11.

Bridge and park commissions, see §§ 55-7-1 et seq.

Width of public roads, see § 65-7-1.

Levy of ad valorem property tax by county to maintain bridges and culverts, see § 65-15-7.

Construction and maintenance of roads and bridges in separate road districts, see § 65-19-53.

Duty of county supervisors to build bridges and culverts in separate road districts, see § 65-19-67.

JUDICIAL DECISIONS

1. In general.

Order granting summary judgment in favor of a county's board of supervisors with regard to a properly owner's action for damage to his timberland was affirmed because the board was immune under Miss. Code Ann. § 11-16-9(1)(d). While Miss. Code Ann. § 65-21-1 set the minimum length for a culvert, it did not make the sizing and installation of a culvert ministerial; therefore, such functions were entitled to immunity under Miss. Code Ann. § 11-46-9(1)(d) as a discretionary function. Fisher v. Lauderdale County Bd. of Supervisors, 7 So. 3d 968 (Miss. Ct. App. 2009).

Evidence did not establish breach of ministerial duty on part of county supervisors in their individual capacities in connection with replacement of bridge with culvert on county road; while statute required culverts to be not less than full width of crown of roadway and to have guide or warning posts on either side, there was no evidence that such minimum standards were not met. Mohundro v. Alcorn County, 675 So. 2d 848 (Miss. 1996).

Miss. Code Ann. § 65-21-1 plainly states that certain construction requirements must be met once a governmental entity determines that a culvert is needed; it only sets forth the minimum requirements to be met with regard to the construction of culverts, and any decisions made outside of those minimum requirements are discretionary functions of government. Barr v. Hancock County, 950 So. 2d 254 (Miss. Ct. App. 2007).

Placement of a warning sign at a culvert is considered a ministerial function, as set forth in Miss. Code Ann. § 65-21-1. Barr v. Hancock County, 950 So. 2d 254 (Miss. Ct. App. 2007).

Summary judgment was properly granted to a county based on sovereign immunity under Miss. Code Ann. § 11-46-9(1)(d) because the decision to backfill a road instead of paving it after the upgrade or installation of a culvert was a discretionary function; even though the failure to place a warning sign was a ministerial function, there was no liability for the county because the condition of the roadway, and not the failure to place the sign, was the cause of the accident. Barr v. Hancock County, 950 So. 2d 254 (Miss. Ct. App. 2007).

The construction of county road bridges in accordance with the specifications mandated by § 65-21-1 is a ministerial function because the statute allows no discretion in meeting the minimum specifications for bridge construction; thus, a county supervisor was not protected by qualified immunity in a wrongful death action arising from an automobile collision which occurred on a bridge that was allegedly negligently constructed. Coplin v. Francis, 631 So. 2d 752 (Miss. 1994).

RESEARCH REFERENCES

ALR. Liability, in motor vehicle-related cases, of governmental entity for injury or death resulting from design, construction, or failure to warn of narrow bridge. 2 A.L.R.4th 635.

§ 65-21-3. Repealed.

Repealed by Laws, 1994, ch. 371, § 2, eff from and after passage (approved March 14, 1994).

[Codes, 1930, § 6312; 1942, § 8421; Laws, 1926, ch. 223; 1930, ch. 153]

Editor's Note — Former § 65-21-3 was entitled: Penalty for violating bridge and culvert standards.

§ 65-21-5. Illumination of bridges.

The several counties of this state bordering on the tide water of the Gulf of Mexico are authorized and empowered, in the discretion of the boards of supervisors of such counties or of any of them, to provide for the proper illumination of all such bridges and other parts of any of the public highways running in, through, or across said counties or any of them as, in the discretion of said boards of supervisors, may be deemed reasonable and necessary. Said boards of supervisors may and shall have authority to appropriate a reasonable and proper sum, to be paid out of the general county fund, for payment of the expenses of providing said system of illumination and the maintenance thereof.

SOURCES: Codes, 1930, § 6330; Laws, 1942, § 8422; Laws, 1930, ch. 32.

RESEARCH REFERENCES

Am Jur. 39 Am. Jur. 2d, Highways, Streets, and Bridges §§ 98, 425.

13A Am. Jur. Pl & Pr Forms (Rev), Highways, Streets, and Bridges, Form 491 (complaint alleging failure to light toll bridge adequately).

§ 65-21-7. Toll bridges and ferries.

The boards of supervisors may, when the same cannot otherwise be conveniently maintained, establish, license, construct, maintain, and operate a toll bridge or ferry on any part of a public road, and shall fix and regulate the tolls.

SOURCES: Codes, 1892, § 3940; 1906, § 4453; Hemingway's 1917, § 7137; 1930, § 6348; 1942, § 8423; Laws, 1926, ch. 236.

Cross References — Exemption of toll bridges from municipal taxes, see § 27-31-25.

Building and operation of toll bridges within municipalities by supervisors, see § 65-21-27.

Ferries generally, see §§ 65-27-1 et seq.

Offenses in relation to ferries or toll bridges, see §§ 97-15-15 et seq.

RESEARCH REFERENCES

Am Jur. 35A Am. Jur. 2d, Ferries § 54.

40 Am. Jur. 2d, Highways, Streets and Bridges §§ 668 et seq.

CJS. 11 C.J.S., Bridges §§ 65 et seq.

36A C.J.S., Ferries § 20.

§ 65-21-9. Bond of toll bridge and ferry keepers.

The board of supervisors shall require the keeper of every toll bridge or ferry to give bond with two or more sufficient sureties, to be approved by the president and clerk of the board in a penalty, to be fixed by the board, of not less than Five Hundred Dollars ($500.00) and not more than Two Thousand Dollars

($2,000.00), and conditioned to keep the bridge or ferry at all times in good repair so as to secure the safe transportation, on the payment of the fixed tolls, of all persons and property, and in all things to comply with the law and the reasonable orders of the board regulating the keeping of such toll bridge or ferry, but saving to the keeper a reasonable time within which to repair damage done by a sudden freshet, storm, or other unforeseen accident.

SOURCES: Codes, 1892, § 3941; 1906, § 4454; Hemingway's 1917, § 7138; 1930, § 6349; 1942, § 8424.

Cross References — Requirement that toll rates be kept in open view, see § 65-27-1.

Bond required of toll ferry keeper, see also § 65-27-5.

Penalty for failure to give bond or allowing bridge or ferry to be out of order, see § 97-15-17.

RESEARCH REFERENCES

Am Jur. 35A Am. Jur. 2d, Ferries §§ 22, 29, 30.

40 Am. Jur. 2d, Highways, Streets, and Bridges §§ 687 et seq.

§ 65-21-11. Board of supervisors may purchase privately owned bridges.

The boards of supervisors of the respective counties are hereby authorized and empowered to acquire by purchase or condemnation proceedings privately owned bridges across rivers or other bodies of water where the said bridges form a link or part of any county, public road, or highway. The boards of supervisors may, in their discretion, contract to purchase and buy any such privately owned bridges at such price and upon such terms as may seem reasonable to the board.

SOURCES: Codes, Hemingway's 1917, § 7133; 1930, § 6350; 1942, § 8425; Laws, 1916, ch. 170.

JUDICIAL DECISIONS

1. In general.

Laws 1916, ch 170, is not necessarily involved in acquiring and paying for bridge by county. Jones v. Little, 133 Miss. 403, 97 So. 578 (1923).

RESEARCH REFERENCES

CJS. 11 C.J.S., Bridges § 34.

§ 65-21-13. Damages for taking private bridges.

In event the board of supervisors and the owners of such bridges cannot agree upon the price to be paid therefor, then the board of supervisors may condemn such bridge as a necessary part of the public road or highway of which said bridge connects and forms a part, and the amount to be paid for such bridge by the county shall be ascertained and determined in the manner now provided by law for the owners of land obtaining compensation for land taken for a public county road. All proceedings of the board of supervisors in assessing the amount to be paid the owners of such bridges may be reviewed by the circuit court; and the owner of such bridge so condemned by the county may appeal from the action of the board to the circuit court, where all questions of damages may be tried anew in the same respect as provided by law for appeals from action of the board of supervisors in assessing damages to the owners of land where land is taken for public county roads.

SOURCES: Codes, Hemingway's 1917, § 7134; 1930, § 6351; 1942, § 8426; Laws, 1916, ch. 170.

Cross References — Damages for land taking for highway construction generally, see § 65-7-61.

Review of land taking proceedings by circuit court, see § 65-7-67.

Eminent domain powers of board of supervisors generally, see § 65-7-89.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

§ 65-21-15. Purchase of toll bridge for free operation.

The board of supervisors of one or more counties, acting individually or jointly by agreement with the private owner or owners, may purchase and maintain toll-free one or more toll bridges in one or more counties. However, this section and 65-21-17 shall not apply to any interstate bridge, nor the bridge across the Pascagoula River at Pascagoula, Mississippi, nor to any bridge on any designated state highway maintained in whole or in part by the state highway department.

SOURCES: Codes, 1942, § 8427; Laws, 1942, ch. 219.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain § 54.

CJS. 11 C.J.S., Bridges § 49.

§ 65-21-17. Bonds to maintain toll-free bridge.

For the purpose of carrying out the provisions of Section 65-21-15, the board or boards of supervisors may, in the same manner as set forth in said section, declare it to be their intention to issue bonds not earlier than thirty days and publish the same, stating the amount of contemplated bond issue, in any legal newspaper in the county or counties involved as provided by law. If twenty per cent of the qualified electors petition the board or boards of supervisors for an election to determine said bond issue, the board or boards of supervisors shall order an election not later than thirty days from the date the petition was presented, and a majority of the qualified electors voting shall decide the bond issue. If one or more of the counties voting should, by a majority vote of the qualified electors voting, decide against said bond issue, the part voting against the bond issue shall not issue said bonds; but if one or more of the counties voting at the same time or some other time vote favorably by a majority of the qualified electors voting for a bond issue, as provided in this section, then the board or boards of supervisors of the county or counties so voting may issue the designated bonds for the purpose of purchasing only the designated bridge or bridges.

SOURCES: Codes, 1942, § 8428; Laws, 1942, ch. 219.

§ 65-21-19. Bridges connecting districts.

When a bridge over any stream or other water will connect two or more districts in any county and the districts so connected shall desire to join in defraying the costs and expenses incident to the building and construction of said bridge, or if only one of said districts shall desire to defray said costs and expenses, it shall be the duty of the board of supervisors of such county, upon petition of twenty percent (20%) of the qualified electors of said districts or, in the case last mentioned, of the district, to order an election to be held on a day to be fixed by it, submitting to the qualified electors of the districts or the district affected, as the case may be, the proposal of said board of supervisors to issue bonds for said purpose against all the taxable property in said districts or district, as the case may be. Said board shall give notice of such election to issue such bonds by publication in a newspaper having a general circulation in said county for three consecutive weeks, which said election shall be held, conducted, and certified as required by law for the holding of general elections, so far as applicable. The tickets to be used in said election shall have printed thereon the purposes for and the amount of said proposed bond issue, after which shall be printed thereon "for the issuance of the bonds" and below that thereon "against the issuance of the bonds."

SOURCES: Codes, 1930, § 6352; 1942, § 8429; Laws, 1928, ch. 91.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

Roads connecting separate road districts, see § 65-19-65.

§ 65-21-21. Bond issue for bridges connecting districts.

Should the result of such election show that it has carried in favor of the issuance of bonds by a majority vote in each district or in the one district, as the case may be, then it shall be the duty of the board of supervisors to issue the bonds of such districts or district affected thereby, as the case may be, for the purpose aforesaid in any amount which, with other outstanding district road or bridge bonds, will not exceed fifteen percent (15%) of the assessed valuation of said districts or district affected thereby, as the case may be.

SOURCES: Codes, 1930, § 6353; 1942, § 8430; Laws, 1928, ch. 91.

Cross References — Inapplicability and lack of force and effect of this section with regard to any county which is required to operate on a countywide system of road administration as described in § 19-2-3, see § 19-2-13.

§ 65-21-23. Bridges over rivers at county boundaries.

When a bridge shall be necessary over a stream or any other body of water which divides one county from another, or a bridge over a river or any other body of water flowing from one county into another shall be necessary at the intersection of the river and the line between the counties, (or necessary to two or more counties and within five miles of each of said counties), the boards of supervisors of all interested counties to which it may be necessary may join in the agreement for building, repairing, and keeping the same. The charge therefor shall be defrayed by all such interested counties as may be agreed upon by the boards of all of said counties; and if the board of supervisors of one county refuses to join in the agreement, the other county or counties may construct the bridge, with the consent of the board of supervisors of the county refusing or failing to join, and have exclusive control of it and charge toll thereon against citizens of the county not joining in the building. The will of the several boards of supervisors hereunder shall be expressed by a resolution duly adopted, entered on the minutes, and published in a newspaper in the county, if there be one; if there be no newspaper in the county, then in a newspaper in an adjoining county, for three weeks before such resolution shall take effect.

SOURCES: Codes, Hutchinson's 1848, ch. 10, art. 7(27); 1857, ch. 15, art. 38; 1871, § 2374; 1880, § 868; 1892, § 3937; 1906, § 4449; Hemingway's 1917, § 7129; 1930, § 6354; 1942, § 8431; Laws, 1914, ch. 249; Laws, 1920, ch. 275.

Cross References — Working of roads in adjoining counties, see § 65-7-77.

§ 65-21-25. Bridges at intersection of river flowing from one county to another.

A bridge built at the intersection of a river flowing from one county into another shall be built at the nearest available site to said intersection. A municipality which, in the judgment of its governing authorities, will be benefited by the construction of such bridge may join such county, or either of them, in building such bridge and keeping and maintaining same upon such terms as may be mutually agreed upon.

SOURCES: Codes, Hutchinson's 1848, ch. 10, art. 7(27); 1857, ch. 15, art. 38; 1871, § 2374; 1880, § 868; 1892, § 3937; 1906, § 4449; Hemingway's 1917, § 7129; 1930, § 6355; 1942, § 8432; Laws, 1914, ch. 249; Laws, 1920, ch. 275.

Cross References — Construction of bridges by municipalities, see 21-19-13.

JUDICIAL DECISIONS

1. In general.

Members of board were not liable for damages resulting from exercise of discretionary powers in good faith. McNulty v. Vickery, 126 Miss. 341, 88 So. 718 (1921).

This section does not authorize construction by joint boards of two counties of bridge over river wholly within one. Board of Supvrs. v. Snellgrove, 103 Miss. 898, 60 So. 1023 (1913).

Board of supervisors cannot construct levee across bayou so as to obstruct natural flow of water. Board of Supvrs. v. Carrier Lumber & Mfg. Co., 103 Miss. 324, 60 So. 326 (1913).

§ 65-21-27. Bridges within municipalities.

In case any public highway of any county in the state shall cross any river or stream on such highway within the boundaries of any municipality, in whole or in part, and it shall be deemed by the board of supervisors to be to the interest of the public that a free or toll bridge be constructed across such stream at the expense and under jurisdiction of the county, and the municipal authorities of such municipality shall by ordinance express a willingness that such bridge be constructed and maintained at the expense of the county, the board of supervisors are hereby authorized and empowered to establish, construct, and maintain such bridge either as a free or toll bridge, as in case of other bridges of the county and to the full extent as now authorized by law in such cases.

SOURCES: Codes, 1930, § 6357; 1942, § 8433; Laws, 1926, ch. 229.

Cross References — Construction of bridges by municipalities, see § 21-19-13.
Construction of toll bridges by county boards of supervisors, see § 65-21-7.

§ 65-21-29. Supervisors to finance municipal bridges.

For the purpose of the construction and operation of the bridges mentioned in Section 65-21-27, the board of supervisors of the county, in the construction and management of same shall be vested with all the powers and authority provided by law for bridging streams of the county, including the levy of taxes and the issuance of bonds.

SOURCES: Codes, 1930, § 6358; 1942, § 8434; Laws, 1926, ch. 229.

CHAPTER 23

Bridges; Boundary and Other Waters

Article 1. Toll Bridges 65-23-1
Article 3. Coastal Area Bridges [Repealed]
Article 5. Interstate Bridge Districts 65-23-201
Article 7. Pearl River Bridges 65-23-301

ARTICLE 1.

TOLL BRIDGES.

SEC.
65-23-1. Authority to construct and operate.
65-23-3. Toll bridge revenue bonds.
65-23-5. Enforcement of payment of bonds.
65-23-7. Power additional to other laws.
65-23-9. How municipality, etc., may come under article.
65-23-11. State Highway Commission may aid.
65-23-13. Purchase of land.
65-23-15. Collection of tolls.
65-23-17. Political authority of adjoining state.
65-23-19. Federal aid.
65-23-21. Article liberally construed.

§ 65-23-1. Authority to construct and operate.

Any municipality, state highway commission, or county, severally or acting with other authorized agencies in this or adjoining states, may acquire, own, operate, construct, or aid in the construction in whole or in part improving and extending, and maintain toll bridges or free bridges, including the approaches thereto, either within such political subdivision or within five miles adjacent to the territory over which such public agency or subdivision has jurisdiction, which bridges shall extend over any of the rivers and waters in or forming the boundary of this and other states.

SOURCES: 1942, § 8435; Laws, 1935, ch. 44.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

Cross References — Prohibition against collection of tolls on state highways except for certain highways which are parts of United States Highway No. 90, see § 65-3-1.

Creation of interstate bridge districts, see § 65-23-201.

Creation of bridge commission for combined railroad and highway bridges over the Mississippi River, see § 65-25-43.

ATTORNEY GENERAL OPINIONS

Approval of Federal Highway Administration must be obtained before agreement can be entered into by State Highway Commission of Mississippi; since responsibility for owning, maintaining, and operating particular bridge was granted by Congress, it may be necessary for any transfer of responsibility to be approved by further act of Congress; this must be considered necessary prerequisite for expenditure of public funds. Tabb, April 5, 1990, A.G. Op. #90-0211.

RESEARCH REFERENCES

Am Jur. 39 Am. Jur. 2d, Highways, Streets, and Bridges §§ 92-95.

§ 65-23-3. Toll bridge revenue bonds.

In order to secure funds or a part of the funds for the purpose of acquiring, constructing, owning, operating, improving, extending, and maintaining toll bridges and approaches thereto, all public agencies named in Section 65-23-1 may issue negotiable toll bridge revenue bonds and sell such bonds to the United States government or any authorized agency thereof or other investor or investors. In the event of the issuance and sale of bonds authorized by this article by a public agency, such agency shall charge a reasonable toll for the use of any such toll bridge, the amount of which toll shall be sufficient to pay the reasonable cost of maintaining, repairing, and operating such bridge and to provide a sinking fund sufficient to amortize and repay any such loan, including interest and financing cost, on such terms and within such period of time as may be agreed upon between the borrower and purchaser of such revenue bonds. Such toll shall be used for no other purpose except for the necessary purpose of maintenance and repair of said bridge; and any public body which shall issue bonds under the provisions of this article is hereby authorized and required to fix a toll schedule, alter and change it, and make all necessary provisions for the payment of principal and interest on any such bonds by the fixing, collecting, segregating, and allocating of the tolls and other revenues received from the operation of such bridge or bridges. Such public agencies enumerated above may execute liens, in proper form, and pledge the revenue derived from the toll of such bridges or such bridge and approaches, or both, which are constructed or acquired with funds borrowed as above to the retirement of such bonds. No revenue bonds or no liens securing such bonds shall be repaid in whole or in part from any funds arising from taxation, nor shall any such bonds or liens given under authority of this article constitute a lien on any other property of such public agency, or a pledge of the credit of such agency, unless specifically so voted by a majority of the qualified electors participating in an election held according to law for the purpose of so authorizing. At such time when all moneys borrowed as aforesaid shall have been repaid, together with interest and charges thereon, no further toll shall be charged for the use of such bridges by the traveling public. Bonds shall have semiannual interest coupons attached; such bonds may be made negotiable, may bear interest not to exceed six and one-half percent (6½%) per annum, may mature annually or semiannually, and may contain a clause giving to the issuing authority the right to redeem any part of said issue of bonds with or without premium, and if with premium then not to exceed two percent (2%). Such bonds may be sold at such time and in such manner as the issuing authority may determine upon. All of such bonds so issued shall mature not more than thirty years after the issuing date thereof. Such bonds shall be payable at such place or places as may be determined upon by the issuing authority, which place of payment shall appear in said bonds. Any provisions of the general laws to the contrary notwithstanding, any bonds or interest coupons issued pursuant to the authorities of this article shall possess all of the qualities of negotiable instruments. The bonds and interest coupons shall be executed in such manner and shall be substantially in the form prescribed in the authorizing ordinance. In case any of the officers whose signature or signatures appear on the bonds or interest coupons shall cease to be such officers before delivery of such bonds, such signatures or counter-signatures shall nevertheless be valid and sufficient for all purposes, the same as though they had remained in office until such delivery. Such bonds shall be sold in such manner and upon such terms as the governing body of the issuing authority or authorities shall determine; but in no event shall the interest cost to maturity exceed six and one-half percent (6½%) per annum. If serial bonds, such bonds shall mature annually or semiannually, and the first maturity date thereof shall not be more than five years from the date of such bonds.

All bonds, maturing annually or semiannually, with all maturities not longer than twenty-five years, with not less than one-fiftieth of the total issue to mature each year during the first ten years of the life of said bonds, and not less than one-twenty-fifth of said total issue to mature annually during the succeeding ten year period of the life of said bonds, shall have the remainder to be divided into approximately equal payments, one payment to mature during each year, or each half year, for the remaining life of the bonds. The bonds and interest coupons shall be exempt from all state, county, municipal, and other taxation under the laws of the State of Mississippi; and the bridge and approaches shall likewise be exempt from all state, county, municipal, and other taxation under the laws of the State of Mississippi. No bonds issued pursuant to this article shall constitute an indebtedness of a municipality or county or taxing district within the meaning of any statute or charter restriction, limitation, or provision. It shall be plainly stated on the face of each such bond, in substance, that the same has been issued under the provisions of this article, that the taxing power of the municipality issuing the same is not pledged to the payment of such bond or interest thereon, and that such bond and interest thereon are payable solely from the revenues of the system to be acquired or improved, for which such bond is issued, unless, as heretofore set forth, a majority of the qualified electors participating in an election for the purpose of issuing such bonds shall have voted other funds toward payment of such bonds.

SOURCES: Codes, 1942, § 8436; Laws, 1935, ch. 44.

Cross References — Bond issues for bridges over waters opening into Gulf of Mexico or Mississippi Sound, see § 65-23-101.

Tax exemption of Gulf of Mexico or Mississippi Sound Project, see § 65-23-111.

Bond issues for interstate bridge districts, see § 65-23-221.

Issuance of bonds for bridges over the Pearl River, see § 65-23-311.

Tax exemption of Mississippi River bridges and bonds, see § 65-25-37.

RESEARCH REFERENCES

Am Jur. 40 Am. Jur. 2d, Highways, Streets, and Bridges § 685.

64 Am. Jur. 2d, Public Securities and Obligations § 385.

§ 65-23-5. Enforcement of payment of bonds.

The holders of any bond or interest coupon issued under the provisions of this article may by suit, action, mandamus, or other proceedings at law or in equity enforce or compel performance by the appropriate official or officials of a municipality or public body of any and all acts and duties to be performed by such public body under the provisions of this article and the ordinance authorizing the issuance of such bonds and interest coupons. If there be any default in the payment of the interest and principal of any of said bonds, any court having jurisdiction in the proper action may, upon petition of the holder of any such bond, appoint a receiver to administer and operate the bridge, with power to fix rates and collect charges sufficient to provide for the payment of all bonds outstanding to the payment of which the revenue of such bridge is pledged, to pay the expenses of operating and maintaining such toll bridge, and to apply the revenues of such toll bridge in conformity with the provisions of this article and the ordinance authorizing the issuance of such bonds.

SOURCES: Codes, 1942, § 8437; Laws, 1935, ch. 44.

§ 65-23-7. Power additional to other laws.

The powers conferred by this article shall be in addition to the powers conferred by any other law, general, special or local. This article, without reference to any other statute or to any charter, shall be deemed full authority to purchase, build, improve, own, and operate the revenue producing system by this article authorized; to fix, maintain, and collect toll rates for the facilities afforded by such toll bridge; and to issue and sell bonds by this article authorized; and shall be construed as an additional and alternative method therefor, any provision of the laws of the state or any charter of any municipality to the contrary notwithstanding. Where no funds are pledged as security for bonds to be issued by the municipality or other political subdivision other than the revenues arising from the tolls of the bridge to be purchased, erected, or extended, bonds may be authorized and issued under this article by ordinance incorporating the terms and conditions of said bonds passed by the governing authority of such municipality, county, taxing district, or other political subdivision, which article, resolution, or ordinance shall be spread in full upon the minutes of such political subdivision. It shall not be necessary to submit same to an election of the qualified voters of such political subdivision unless moneys for the payment of such bonds or interest thereon or maintenance of such bridge, or construction thereof, shall be pledged from taxes or other funds other than the revenue alone arising from the tolls collected on such bridge. In such event the proposition for the pledging of such additional funds and the issuance of such bonds shall be submitted for the approval of same to the voters of the municipality or other political subdivision at a special election called therefor according to law, and after a majority of the qualified electors voting at said election have voted in favor of the proposed bond issue. Where bonds have been authorized under this article, it shall not be necessary to make publication of any ordinance, resolution, notice, or proceedings relating thereto.

SOURCES: Codes, 1942, § 8438; Laws, 1935, ch. 44.

§ 65-23-9. How municipality, etc., may come under article.

Any municipality or county or political subdivision desiring to come under this article, whether such municipality be a special charter municipality or not, may so do and may own, operate, and maintain such toll bridge wholly within the State of Mississippi or partly within the State of Mississippi and partly within any adjoining state, together with all approaches to and from said bridge. This article shall apply to special charter cities simply by resolution of the governing authority thereof, either through resolution or ordinance, and without amendment to the charter of such municipality.

SOURCES: Codes, 1942, § 8439; Laws, 1935, ch. 44.

Cross References — Federal aid to municipalities, see § 65-23-19.

§ 65-23-11. State Highway Commission may aid.

The Mississippi State Highway Commission may, when in its opinion the best interest of the state requires, contribute such an amount of the cost of the construction of such bridge or bridges as it may determine would be to the best interest of the State of Mississippi when such bridge forms a part of or a continuation of the state highway system, or is so connected with the state highway system through the streets of a municipality leading from the approaches of such bridge to the state highway system, and may incorporate any such toll bridge into the state highway system. Such State Highway Commission may, in whole or in part, maintain such bridge as a part of the state highway system, or may leave the maintenance of such bridge to the municipality or other political body acting jointly with such State Highway Commission in the financing and operation of such bridge. In event that the State Highway Commission shall contribute any sums of money towards the creation or acquisition of such bridge and the approaches thereto, said State

Highway Commission may or may not, in its discretion, require the repayment of such funds through tolls collected, together with interest on such moneys so advanced or donated at a rate, to be determined by said State Highway Commission, not to exceed said amount of six and one-half percent (6½%).

SOURCES: Codes, 1942, § 8440; Laws, 1935, ch. 44.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 65-23-13. Purchase of land.

The public agencies herein named, either jointly or severally, may acquire by purchase, gift, donation, or by eminent domain all necessary land, rights of way, easements, and supplies for the purpose of acquiring, constructing, owning, operating, improving, extending, and maintaining toll bridges and approaches thereto, acquiring same in such necessary width and length as the governing authority of such political subdivision or subdivisions may determine will be necessary, right, and proper for such bridge purposes. Such public agencies are likewise granted such rights in any adjoining state, provided that such rights do not in anywise conflict with the laws of such adjoining state.

SOURCES: Codes, 1942, § 8441; Laws, 1935, ch. 44.

Cross References — Eminent domain generally, see §§ 11-27-1 et seq.

Damages for land taking for highway purposes, see § 65-7-61.

Eminent domain powers of board of supervisors in regard to county roads, see § 65-7-89.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

§ 65-23-15. Collection of tolls.

Nothing in this article shall authorize or permit the collection of tolls on any bridge heretofore made toll-free or on any existing bridge on which tolls are not at present collected.

SOURCES: Codes, 1942, § 8442; Laws, 1935, ch. 44.

Cross References — Prohibition against collecting tolls on state highways, see § 65-3-1.

§ 65-23-17. Political authority of adjoining state.

Any municipality, county, parish, highway commission, or other political authority in an adjoining state which has been properly authorized by the laws of that state and the United States may exercise in the State of Mississippi any and all the powers granted in this article to municipalities and other public bodies in Mississippi, subject to the conditions and requirements of this article. In event that the powers granted under this article are exercised solely by a municipality or county, then same shall be exercised by the governing authority of such municipality or county; and in the event that same are exercised jointly, then same shall be exercised jointly by the governing authorities of such political subdivisions.

SOURCES: Codes, 1942, § 8443; Laws, 1935, ch. 44.

§ 65-23-19. Federal aid.

Any municipality or public authority hereinabove set forth, either jointly or severally, may enter into contracts with the United States of America, or any agency thereof, under the provisions of the National Industrial Recovery Act and the regulations made in pursuance thereof, and under any further acts of Congress of the United States to encourage public works, for the sale of bonds issued in accordance with the provisions of this article, or for the acceptance of a grant to aid such municipality or other public authority to acquire, build, or improve any toll bridge, or to enter into contracts with any person or corporation, public or private, for the sale of such bonds. Such contracts may contain such terms and conditions as may be agreed upon by and between the municipality, or other public authority, and the United States of America, any agency thereof, or any purchaser of such bonds. This and all other provisions of this article shall apply to code municipalities of the State of Mississippi or special charter cities of the State of Mississippi alike. In event of special charter cities of the State of Mississippi, no amendment to the charter of such municipality shall be necessary in order for such municipality to have advantage of this article, but such municipality shall have such advantage by simply spreading upon the minutes of its governing board of authority by resolution or ordinance the fact that same desires to come under the provisions of this article, in which event such municipality or any other political authority of the State of Mississippi hereinabove named shall have full power to adopt such ordinance and resolution and to do all things and perform all acts necessary or right or desirable to effectuate the full intent and purpose of this article.

SOURCES: Codes, 1942, § 8444; Laws, 1935, ch. 44.

Federal Aspects — National Industrial Recovery Act, see 15 U.S.C.S. § 701 et seq.

§ 65-23-21. Article liberally construed.

This article, being necessary for and to secure the public health, safety, convenience, and welfare of municipalities, counties, and other political agencies of the State of Mississippi, shall be liberally construed to effect the purposes hereof.

SOURCES: Codes, 1942, § 8446; Laws, 1935, ch. 44.

ARTICLE 3.

COASTAL AREA BRIDGES [REPEALED].

§§ 65-23-101 through 65-23-121. Repealed.

Repealed by Laws of 2007, ch. 582, § 25, eff July 18, 2007 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the repeal of these sections.

§ 65-23-101. [Codes, 1942, § 8447-01; Laws, 1950, ch. 406, § 1.
§ 65-23-103. [Codes, 1942, § 8447-02; Laws, 1950, ch. 406, § 2.]
§ 65-23-105. [Codes, 1942, § 8447-03; Laws, 1950, ch. 406, § 3, ch. 396.]
§ 65-23-107. [Codes, 1942, § 8447-04; Laws, 1950, ch. 406, § 4.]
§ 65-23-109. [Codes, 1942, § 8447-05; Laws, 1950, ch. 406, § 5.]
§ 65-23-111. [Codes, 1942, § 8447-06; Laws, 1950, ch. 406, § 6.]
§ 65-23-113. [Codes, 1942, § 8447-07; Laws, 1950, ch. 406, § 7.
§ 65-23-115. [Codes, 1942, § 8447-08; Laws, 1950, ch. 406, § 8.]
§ 65-23-117. [Codes, 1942, § 8447-09; Laws, 1950, ch. 406, § 9.]
§ 65-23-119. [Codes, 1942, § 8447-10; Laws, 1950, ch. 406, § 10.]
§ 65-23-121. [Codes, 1942, § 8447-12; Laws, 1952, ch. 295.]

Editor's Note — On July 18, 2007, the United States Attorney General interposed no objection to the repeal of these sections by Laws of 2007, ch. 582.

Former §§ 65-23-101 through 65-23-121 authorized the Department of Transportation to construct toll bridges across bays and rivers of the Gulf of Mexico.

JUDICIAL DECISIONS

1. In general.

Where the state gave the riparian owners bordering on Gulf of Mexico, Mississippi Sound and waters tributary thereto, license or the privilege to plant and gather oysters and to build bathhouses and other structures, the privilege or license was subject to superior right of the state to impose an additional public use upon such property already set aside for public purpose without requiring the payment of compensation for it. Crary v. State Hwy. Comm'n, 219 Miss. 284, 68 So. 2d 468 (1953).

Where state constructed a bridge across the bay of St. Louis, which bridge was partly across area of riparian owners who had been granted the privilege and license of planting and gathering oysters and erecting bathhouses and other structures, the state by building this bridge exercised its power to impose an additional public use upon a property which was already set aside for public purposes and the exercise of this power was not taking of property for which compensation must be made. Crary v. State Hwy. Comm'n, 219 Miss. 284, 68 So. 2d 468 (1953).

RESEARCH REFERENCES

Am Jur. 39 Am. Jur. 2d, Highways, Streets, and Bridges §§ 46-48.

9 Am. Jur. Pl & Pr Forms (Rev), Eminent Domain, Form 31.1 (Complaint, petition, or declaration-For condemnation-By state agency-For state transportation facility).

CJS. 11 C.J.S., Bridges §§ 6 et seq.

ARTICLE 5.

INTERSTATE BRIDGE DISTRICTS.

SEC.	
65-23-201.	Creation of interstate bridge districts on petition.
65-23-203.	Hearing on petitions of property owners.
65-23-205.	Appointment of commissioners.
65-23-207.	Compensation of commissioners.
65-23-209.	Employees.
65-23-211.	Plans.
65-23-213.	Assessment of benefits.
65-23-215.	Hearing to make assessment of benefits final.
65-23-217.	Tax levy.
65-23-219.	Deficiency tax levy.
65-23-221.	Bond issue.
65-23-223.	Lien of bonds.
65-23-225.	Tolls.
65-23-227.	Contract powers of commissioners.
65-23-229.	Acquisition and holding of real estate; eminent domain.

§ 65-23-201. Creation of interstate bridge districts on petition.

When fifty or more owners of real property within a proposed district shall file a petition with the chancery court of the county in which the largest portion of the lands of the proposed district are situated, seeking to establish a bridge district for the purpose of constructing, maintaining, and operating an interstate bridge and the approaches thereto embracing their property, said petition shall describe the region or area to be embraced within said district and describe generally the location of said bridge, the proposed plan of financing the construction, maintenance, and operation of said bridge, together with a general idea of its character and expenses, accompanied by a certificate or resolution from the Mississippi State Highway Commission showing the need and necessity for the construction of such bridge; then it shall be the duty of the clerk of the chancery court to enter upon its records an evidence of having filed the petition. After having filed said petition, said property owners or their representatives shall apply to the chancellor in vacation or term time for an order fixing a day and date for a hearing on said petition to determine whether or not the petition should be granted or denied. The chancery clerk, after having received the order fixing a day and date for such hearing, shall thereupon give notice by publication once each week for three consecutive weeks in some newspaper published and having a general circulation in the county or counties within which the lands of the proposed district are situated, notifying all persons owning property therein to appear before the chancery court on the day and date fixed by said court to show cause in favor of or against the establishment of said district. At the time named in said notice, the chancery court shall meet and hear all property owners within the proposed district who wish to appear for or against the establishment of the district. If it is deemed to the best interest of the owners of real property within said district that the same shall be created under the provisions of this article the court shall enter an order establishing the district as an interstate bridge district, which shall be subject to all of the terms and provisions of this article. Any landowner feeling aggrieved by the order of the court shall have the right of appeal within thirty days from the date the order was entered, and such appeal may be prosecuted in the manner now provided by law.

SOURCES: Codes, 1942, § 8447-21; Laws, 1952, ch. 210, § 1.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

Cross References — Construction of bridges generally, see §§ 65-23-1 et seq.

Mississippi River bridges, see §§ 65-25-1 et seq.

§ 65-23-203. Hearing on petitions of property owners.

If, upon the hearing provided in Section 65-23-201, petitions are presented to the chancery court signed by property owners within the proposed district who own a majority of the real property in said district as determined by the value thereof, praying that the improvement be made, it shall be the duty of the chancery court to make an order establishing the district without further inquiry; however, this shall not preclude the rights of appeal hereinabove provided. If no such petitions are filed in the chancery court, then the question of whether such improvement be made shall be submitted to a special election held for the purpose. If a majority of those voting in said election approve the improvement, then upon proper certification thereof the matter may be submitted to the chancery court, and the court shall proceed to investigate the matters relevantly before the court. If it is the opinion of the court that such district should be formed, an order may be entered to that effect. The petitions of the property owners in this section referred to may be signed by any person, firm, or corporation owning real property therein; and guardians may sign for their wards, and fiduciaries may sign for the property they represent.

SOURCES: Codes, 1942, § 8447-22; Laws, 1952, ch. 210, § 2.

§ 65-23-205. Appointment of commissioners.

When the chancery court has established a bridge district as hereinabove provided, it shall appoint five owners of real property residing within the district to act as commissioners. Each commissioner shall take the oath of office required by Section 268 of the Constitution of Mississippi, and shall also swear that he will not directly or indirectly be interested in any contract made by the board of commissioners and that he will well and truly assess all benefits resulting from said improvement.

No commissioner shall be eligible to discharge the duties of his office until the oath herein required has been taken.

SOURCES: Codes, 1942, § 8447-23; Laws, 1952, ch. 210, § 3.

Cross References — Compensation of commissioners, see § 65-23-207.

Creation of bridge commission for combined railroad and highway bridges over the Mississippi River, see § 65-25-43.

§ 65-23-207. Compensation of commissioners.

The commissioners hereinabove provided shall receive the sum of Ten Dollars ($10.00) per day for each day, or major fraction thereof, in which they are called upon to attend the meetings of the board, together with necessary travel expenses not to exceed Six Cents (6¢) per mile for miles actually travelled while engaged in the business of their office.

SOURCES: Codes, 1942, § 8447-24; Laws, 1952, ch. 210, § 4.

§ 65-23-209. Employees.

The board of commissioners shall have the power to employ engineers, attorneys, auditors, manager or superintendent, and such other employees as may be necessary for the orderly function of such district, and to fix their respective compensation.

SOURCES: Codes, 1942, § 8447-25; Laws, 1952, ch. 210, § 5.

§ 65-23-211. Plans.

As soon as the board of commissioners shall have formed plans for such bridge and the approaches thereto and shall have ascertained the cost thereof, it shall file the same with the chancery clerk of each county having territory in said district. The plans shall be accompanied by a map showing the location of the bridge and approaches thereto, together with specifications describing the construction and character of the improvement to be made.

SOURCES: Codes, 1942, § 8447-26; Laws, 1952, ch. 210, § 6.

§ 65-23-213. Assessment of benefits.

The board of commissioners shall proceed to assess the lands within the district, shall inscribe in a book the description of each tract, piece, and parcel of land, shall assess the benefits to accrue to each tract, piece, and parcel of land by reason of such improvement, and shall enter such assessment of the benefits to be derived opposite the description thereof. The assessment shall embrace not merely the lands but all public and corporate roads, railroads, tramroads, and other improvements on the land that will be benefited by the improvement. They shall place opposite each tract, piece, and parcel of land the supposed name of the owner, as shown by the last general assessment of lands within the county; but a mistake in name shall not vitiate or invalidate the assessment, and they may correct evident errors which occur in the assessment list.

SOURCES: Codes, 1942, § 8447-27; Laws, 1952, ch. 210, § 7.

Cross References — Hearing to make assessment of benefits final, see § 65-23-215. Tax levy to pay expenses of district, see § 65-23-217.

§ 65-23-215. Hearing to make assessment of benefits final.

When the assessment of benefits is completed the board of commissioners shall subscribe such assessment and file it with the chancery clerk of the county wherein the land is situated, where it may be preserved and kept as a public record. Upon the filing of said assessment of benefits, the chancery clerk of such county shall give notice of such filing by publication once each week for three consecutive weeks in some newspaper having general circulation in the county or counties in which the lands of the district are situated. Said notice shall include a day, not less than thirty days from the date of filing the assessment and not more than forty-five days from the date of filing the assessment, at which time property owners may appear and file objections to such assessment. The board of commissioners shall meet on the date set out in such notice, to hear such objections and to make such corrections and adjustments as may be proper in the case, and shall equalize the assessments according to the benefits to be derived from the special improvement herein provided. After having heard the objections and equalized the assessments, the board of commissioners shall enter its order making such assessments final. Any property owner within the district who feels aggrieved by the order making the assessment final shall have the right, within ten days after said order has been entered, to appeal the assessment to the chancery court of the county in which such property is situated. The appeal from the assessment may be heard by the chancellor in term time or in vacation, and after hearing thereof the chancellor shall enter such order as may be proper in the case. Appeals may be taken from the final order of the chancellor within the time and in the manner now provided by law for appeals from any decree of the court.

When the assessment of benefits has been made final and filed as hereinabove provided, the property owner shall have the right to pay such assessment of benefits in full at any time within sixty days after it became final; but if he does not avail himself of this privilege, the assessment of benefits shall bear interest at the rate of six percent (6%) per annum.

SOURCES: Codes, 1942, § 8447-28; Laws, 1952, ch. 210, § 8.

§ 65-23-217. Tax levy.

After the board of commissioners has completed the assessment as hereinabove provided, it shall have the authority and is hereby directed to levy a tax upon the taxable property of the district, as it may consider necessary to be levied to pay the preliminary expenses of said district. When the rate of taxation is determined by the commissioners, it shall be filed with the tax collector of the county wherein such property is situated, together with a copy of the assessment hereinabove required, which shall be a warrant for the collection of such taxes. The taxes herein levied shall be collected by the tax collector of the county, along with other taxes of the county. For collecting such taxes, the tax collector shall receive the same compensation as is provided by law for the collection of state and county taxes, and the taxes so collected shall be paid over by the tax collector to the board of commissioners of the district at the same time he is required to make settlement with the county for general taxes.

All taxes levied under the provisions of this article shall be payable at the same time and in the same manner as state and county taxes and, upon default, the tax collector shall certify such delinquent taxes to the board of commissioners and shall also file a copy of such delinquent taxes with the clerk of the chancery court, as is now required to be filed for other delinquent taxes. The board of commissioners shall have the same authority and it is hereby required to enforce the collection of delinquent taxes, penalties, and costs by proceeding in the chancery court of the county in which the lands are situated, and may have the lands subject to such tax sold by order of the chancery court.

SOURCES: Codes, 1942, § 8447-29; Laws, 1952, ch. 210, § 9.

Cross References — Deficiency tax levy, see § 65-23-219.

§ 65-23-219. Deficiency tax levy.

If the tax first levied shall prove insufficient to complete the improvement or to pay the bonds, both principal and interest, issued by the board of commissioners for such improvement, as the same shall become due and payable, the board of commissioners shall, from time to time, report the amount of the deficiency to the chancery court; and said commissioners shall make such levy or levies upon the property previously assessed for a sum or sums sufficient to complete the improvement and to pay the bonds and interest in the manner as the first levy above provided.

SOURCES: Codes, 1942, § 8447-30; Laws, 1952, ch. 210, § 10.

§ 65-23-221. Bond issue.

In order to carry out the purposes for which the district is organized and created, the board of commissioners may borrow money at a rate of interest not exceeding six percent (6%) per annum and issue negotiable notes or bonds therefor, signed by the chairman or vice-chairman and the secretary, when authorized by the commissioners, and may pledge all assessments of benefits for the repayment thereof. No bonds issued under the terms of this article shall run for more than thirty years, and all issues of such bonds must be divided so that a portion thereof will mature each year, as other general obligation bonds are now required to be issued.

SOURCES: Codes, 1942, § 8447-31; Laws, 1952, ch. 210, § 11.

Cross References — Lien of bonds, see § 65-23-223.
Mississippi River bridge revenue bonds, see § 65-25-15.

§ 65-23-223. Lien of bonds.

All bonds issued by the board of commissioners shall be secured by liens on all lands, railroads, and tramroads in the district. The board of commissioners shall be required to levy a tax annually and to collect same under the provisions of this article so long as it is necessary and required to pay any bonds or obligations issued under the authority herein granted. The making of such levy of tax on the assessment of benefits and collection thereof may be enforced by proper proceedings in court.

SOURCES: Codes, 1942, § 8447-32; Laws, 1952, ch. 210, § 12.

§ 65-23-225. Tolls.

The board of commissioners herein created are hereby granted the right and power to construct, operate, and maintain said bridge as a toll bridge, and shall have the power to fix and determine, subject to the terms and provisions of the General Bridge Authority Act of Congress, approved August 2, 1946, and any laws amendatory thereof, the tolls to be charged for transit over such bridge for motor-propelled vehicles, wagons, carriages, animals, foot passengers, pipe line or lines, or other persons, firms, or corporations using such bridge; and the rates so prescribed shall be the legal rates demanded and received for such transit. The rates for such tolls may be increased or decreased from time to time by the board of commissioners, subject, however, to the terms and provisions of the above-mentioned act of Congress. The board of commissioners shall make an annual report of all tolls collected to a trustee or trustees representing the bond holders and to the Mississippi State Highway Commission, and one copy of said report shall be filed with the clerk of the chancery court of the county in which the bridge is located. When the bonded indebtedness and all claims and liability have been fully paid and discharged, said bridge shall become a free bridge. The board of commissioners shall thereupon convey all its right, title, and interest in said bridge to the Mississippi State Highway Commission, and said commission shall maintain and operate said bridge as a part of its highway system without cost to the individual user thereof. The tolls so charged and collected for the use of such bridge shall be used as follows:

(a) To the payment of the reasonable cost of maintaining, repairing, and operating the bridge and approaches thereto, under economical management;

(b) To the payment of the principal and interest on the bonded indebtedness; and

(c) The balance, if any, to be placed in an interest and sinking fund to be used for future maintenance and operations and the retirement of the bonded indebtedness.

SOURCES: Codes, 1942, § 8447-33; Laws, 1952, ch. 210, § 13.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

RESEARCH REFERENCES

Am Jur. 40 Am. Jur. 2d, Highways, Streets, and Bridges § 601.

§ 65-23-227. Contract powers of commissioners.

For the purpose of carrying into effect the objects and purposes of this article the board of commissioners shall have full power and authority to negotiate and enter into contract or contracts with the federal government or any of its agencies, the Mississippi State Highway Commission, the state highway commission of any adjoining state where said bridge may be located, any counties, cities, or town of the State of Mississippi or of any adjoining state whereby the district may receive financial aid in the construction, maintenance, and operation of said bridge and approaches thereto; to contract for the joint ownership thereof and the means and manner of operating and maintaining said bridge and approaches thereto. The powers herein granted to the board of commissioners shall have broad and liberal construction for the purpose of carrying out the provisions of this article.

SOURCES: Codes, 1942, § 8447-34; Laws, 1952, ch. 210, § 14.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 65-23-229. Acquisition and holding of real estate; eminent domain.

The board of commissioners, acting for and in behalf of the district, shall have the right, power, and authority to purchase, hold, and possess such real estate as may be necessary for the purposes for which the district was organized and, in addition thereto, the district organized hereunder shall have the right of eminent domain. If condemnation proceedings become necessary, such proceedings shall be instituted and conducted in the manner as is now provided by law for such condemnation proceedings.

SOURCES: Codes, 1942, § 8447-35; Laws, 1952, ch. 210, § 15.

Cross References — Eminent domain generally, see §§ 11-27-1 et seq.

Eminent domain powers of board of supervisors to acquire rights of way for roads, see § 65-7-89.

Condemnation of property for Mississippi River bridges, see § 65-25-9.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

ARTICLE 7.

PEARL RIVER BRIDGES.

SEC.	
65-23-301.	Citation.
65-23-303.	Legislative determination.
65-23-305.	Construction by certain counties authorized.
65-23-307.	Definitions.
65-23-309.	Acquisition of rights of way.
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65-23-315.	Trust indenture authorized.
65-23-317.	Application of tolls and charges.
65-23-319.	Bridges toll-free after bonds retired.
65-23-321.	Enforcement of bondholders' rights.
65-23-323.	Grants and preliminary loans.
65-23-325.	Powers and duties of governing bodies of counties issuing bonds.
65-23-327.	Tax exemption.
65-23-329.	Construction and operation of article.
65-23-331.	Bonds not limited by issuing county's valuation of taxable property.

§ 65-23-301. Citation.

This article shall be known, and may be cited, as the "Pearl River Bridge Revenue Bond Law".

SOURCES: Codes, 1942, § 8447-51; Laws, 1964, ch. 277, § 1, eff from and after passage (approved June 6, 1964).

Cross References — Construction of bridges over boundary and other waters generally, see §§ 65-23-1 et seq.

Mississippi River bridges generally, see §§ 65-25-1 et seq.

§ 65-23-303. Legislative determination.

It is hereby declared, as a matter of legislative determination, that the construction, operation, and maintenance of additional bridges and adjacent roadways across the flood plain of, and across, the Pearl River will promote the economic development of the state and will promote the general welfare of the entire people of the state.

SOURCES: Codes, 1942, § 8447-52; Laws, 1964, ch. 277, § 2, eff from and after passage (approved June 6, 1964).

§ 65-23-305. Construction by certain counties authorized.

Any county of this state bordering on the Pearl River is hereby authorized and empowered, separately or jointly, with any other county of the state bordering on the Pearl River:

(a) To plan, construct, operate, and maintain a toll bridge or bridges and adjacent roadways across the flood plain of, and over and across, the Pearl River.

(b) To issue bridge revenue bonds of such county or counties, payable from bridge earnings, to pay the cost of such bridges.

However, no bonds or liens given under authority of this article shall constitute a lien on any property of such county or counties other than the bridge or bridges constructed under this article, or a pledge of the revenues therefrom.

(c) In the event two counties, acting jointly, exercise the powers conferred by this article, all acts shall be authorized by the governing body of each county, and in such event any revenue bonds issued shall be bonds of both of said counties.

(d) To enter into contracts and/or agreements with any federal agencies, public agencies, or political subdivisions of any kind, including municipalities, corporations, districts, or others, for any financing, construction, operation, or maintenance requirements.

SOURCES: Codes, 1942, § 8447-53; Laws, 1964, ch. 277, § 3, eff from and after passage (approved June 6, 1964).

Cross References — Building of bridges over rivers forming county boundaries, see § 65-21-23.

Toll bridge revenue bonds generally, see § 65-23-3.

§ 65-23-307. Definitions.

As used in this article, the following words and terms shall have the following meanings:

(a) The word "bridge" shall be deemed to include the structure and the superstructure of the bridge, the approaches thereto, and adjacent roadways across the flood plain of the Pearl River and also all property, rights, easements, and franchises relating thereto and deemed necessary or convenient for the operation thereof.

(b) The term "governing body" shall mean the board of supervisors of a county or counties.

(c) The term "cost of bridge," as applied to a bridge to be constructed pursuant to the provisions hereof, shall embrace the cost of construction, the cost of all land, property, rights, easements, and franchises acquired, which are deemed necessary for such construction, financing charges, interest prior to and during construction and for eighteen months after acceptance of the completed work by the governing body of such county or counties, cost of traffic estimates and of engineering and of legal expenses, plans, specifications, surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized and the construction of the bridge and the placing of the bridge in operation.

SOURCES: Codes, 1942, § 8447-54; Laws, 1964, ch. 277, § 4, eff from and after passage (approved June 6, 1964).

§ 65-23-309. Acquisition of rights of way.

Any such county acting separately or jointly with another county is hereby authorized and empowered to construct, whenever it shall deem such construction expedient, any toll bridge located as provided in Section 65-23-305. Authority is hereby granted to any such county or counties to purchase, solely from funds provided under the authority of this article, such lands, rights of way, easements, and other interests in lands, including lands under water and riparian rights of any person, copartnership, association, railroad or other corporation, municipality, or political subdivision, deemed necessary for the construction of any such bridge, upon such terms and at such prices as may be considered by it or them to be reasonable and can be agreed upon between it or them and the owner thereof, and to take title thereto in the name of such county or counties. Any such county or counties may acquire such lands, rights of way, easements, and other interest in land by eminent domain in the manner now provided by law. The State of Mississippi hereby consents to the use of all lands lying under water, which are within the state and are necessary for the construction and operation of any such bridge and the approaches and appurtenances thereto.

SOURCES: Codes, 1942, § 8447-55; Laws, 1964, ch. 277, § 5, eff from and after passage (approved June 6, 1964).

Cross References — Eminent domain generally, see §§ 11-27-1 et seq.

Eminent domain powers of board of supervisors for acquisition of land for road purposes, see § 65-7-89.

Acquisition of land for bridges, see § 65-23-13.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain § 54.

CJS. 29A C.J.S., Eminent Domain § 30.

§ 65-23-311. Issuance of bonds authorized.

The governing body of any such county is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of bridge revenue bonds of such county, if acting separately, and of such counties, if acting jointly, for the purpose of paying the cost, as hereinabove defined, of any one or more of such bridges, which resolution shall recite an estimate of such cost. The principal and interest of such bonds shall be payable solely from the special fund herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rate or rates not exceeding six percent (6%) per annum, payable semiannually, shall mature at such time or times, not exceeding forty (40) years from their date or dates, as may be determined by the governing body of such county or counties, and may be made redeemable before maturity, at the option of the county or counties, at such price or prices and under such terms and conditions as may be fixed by the governing body of such county or counties prior to the issuance of the bonds. The principal and interest of such bonds may be made payable in any lawful medium. The governing body of such county or counties shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest thereof, which may be at any bank or trust company within or without the state. The bonds and any interest coupons attached thereto shall be executed in such manner as shall be determined by the governing body of the county or counties. In case any officer whose signature shall appear on the bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bridge revenue bonds issued under the provisions of this article are hereby declared to have, as between successive holders, all the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the state. Provision may be made for the registration of any of the bonds in the name of the owner as to principal alone, in the manner now provided by law for the registration of bonds issued by a county. The governing body of such county or counties may sell such bonds at public or private sale in such manner and for such price as it or they may determine to be for the best interest of such county or counties, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than six percent (6%) per annum, computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values. The proceeds of such bonds shall be used solely for the payment of the cost of the bridge or bridges, and shall be disbursed under such restrictions, if any, as the governing body of such county or counties thereof may provide. If the proceeds of such bonds, by error of calculation or otherwise, shall be less than the cost of the bridge or bridges, additional bonds may in like manner be issued to provide the amount of such deficit, and unless otherwise provided in the trust indenture hereinafter mentioned, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same bridge or bridges. If the proceeds of bonds issued for any bridge or bridges shall exceed the cost thereof, the surplus shall be paid into the fund hereinafter provided for the payment of principal and interest of such bonds. Prior to the preparation of definitive bonds, such county or counties may, under like restrictions, issue temporary bonds, with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. The governing body of any such county or counties may also provide for the replacement of any bond which shall become mutilated or be destroyed or lost. Such bridge revenue bonds may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions and things which are specified and required by this article. The powers conferred by this article shall be in addition to the power conferred by any other law, general, special, or local, and this article, without reference to any other statute, shall be deemed full authority for the purpose hereof. In the discretion of the governing body of any such county or counties, bridge revenue bonds of a single issue may be issued for the purpose of paying the cost of any one or more bridges.

SOURCES: Codes, 1942, § 8447-56; Laws, 1964, ch. 277, § 6, eff from and after passage (approved June 6, 1964).

Cross References — Toll bridge revenue bonds generally, see § 65-23-3.

Application of bond proceeds, see § 65-23-313.

Negotiable instruments under the Mississippi Uniform Commercial Code, see §§ 75-3-101 et seq.

§ 65-23-313. Application of bond proceeds.

All moneys received from any bridge revenue bond issued pursuant to this article shall be applied solely to the payment of the cost of the bridge or bridges, or to the appurtenant sinking fund, and there is hereby created and granted a lien upon such moneys until so applied, in favor of the holders of such bonds or the trustee hereinafter provided in respect of such bonds.

SOURCES: Codes, 1942, § 8447-57; Laws, 1964, ch. 277, § 7, eff from and after passage (approved June 6, 1964).

§ 65-23-315. Trust indenture authorized.

In the discretion of the governing body of any such county or counties issuing bonds under the provisions of this article, each or any issue of such bonds may be secured by a trust indenture by and between such county or counties and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside of the state. Said trust indenture may, in the discretion of the governing body, convey or mortgage the revenues, the bridge, or any part thereof.

Either the resolution providing for the issuance of bridge revenue bonds or such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of such county or counties and the governing body thereof in relation to the construction, maintenance, operation, repair, and insurance of the bridges, and the custody, safeguarding, and application of all moneys; and it may also provide that the bridge or bridges shall be constructed and paid for under the supervision and approval of consulting engineers employed or designated by the governing body of such county or counties and satisfactory to the original purchasers of the bonds issued therefor, and may also require that the security given by contractors and by any depository of the proceeds of the bonds or revenues of the bridges or other moneys pertaining thereto be satisfactory to such purchasers. It shall be lawful for any bank or trust company incorporated under the laws of this state to act as such depository and to furnish such indemnifying bonds or to pledge such securities as may be required by the governing body of such county or counties. Such indenture may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action of bondholders as is customary in trust indentures securing bonds and debentures of corporations. Except as in this article otherwise provided, the governing body of such county or counties may provide, by resolution or by such trust indenture, for the payment of the proceeds of the sale of the bonds and the revenues of the bridges to such officer, board, or depository as it may determine for the custody thereof, and for the method of disbursement thereof with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation, and repair of the bridge or bridges affected by such indenture.

SOURCES: Codes, 1942, § 8447-58; Laws, 1964, ch. 277, § 8, eff from and after passage (approved June 6, 1964).

§ 65-23-317. Application of tolls and charges.

The governing body of any such county or counties issuing bonds under the provisions of this article is hereby authorized to fix and to revise from time to time tolls for transit over such bridges, to charge and collect the same, and to contract with any person, partnership, association, or corporation desiring the use of any bridge, its approaches, appurtenances, or any part thereof for placing thereon water, gas, oil pipelines, telephone, telegraph, electric light or power lines, railroad or street railway tracks, or for any other purpose, and to fix the terms, conditions, rates, and charges for such use. Such tolls shall be so fixed and adjusted, in respect of the aggregate of tolls from the bridge or bridges for which a single issue of bonds is issued, as to provide a fund sufficient with other revenues of the bridge or bridges, if any, to pay (a) the cost of maintaining, repairing, operating such bridge or bridges, and collecting tolls, and (b) the bonds and the interest thereon as the same become due. Such tolls shall not be subject to supervision or regulation by any state commission, board, bureau, or agency, except such bureau or agency that might participate in the financing of the cost of any such bridge. The tolls from the bridge or bridges for which a single issue of bonds is issued, except such part thereof as may be required to pay the cost of maintaining, repairing, and operating the bridge or bridges and to provide such reserves therefor as may be provided in the resolution authorizing the issuance of the bonds or in the trust indenture, shall be set aside at such regular intervals as may be provided in such resolution or such trust indenture, in a sinking fund which is hereby pledged to, and charged with, the payment of (1) the interest upon such bonds as such interest shall fall due, (2) the principal of the bonds as the same shall fall due, (3) the necessary fiscal agency charges for paying principal and interest, and (4) any premium upon bonds retired by call or purchase as herein provided. The use and disposition of such sinking fund shall be subject to such regulations as may be provided in the resolution authorizing the issuance of bonds, or in the trust indenture, but, except as may otherwise be provided in such resolution or trust indenture, such sinking fund shall be a fund for the benefit of all bonds without distinction or priority of one over another. Subject to the provisions of the resolution authorizing the issuance of bonds or of the trust indenture, any moneys in such sinking fund in excess of an amount equal to one year's interest on all bonds then outstanding may be applied to the purchase or redemption of bonds. All bonds so purchased or redeemed shall forthwith be cancelled and shall not again be issued.

SOURCES: Codes, 1942, § 8447-59; Laws, 1964, ch. 277, § 9, eff from and after passage (approved June 6, 1964).

Cross References — Provision that bridges shall be toll free after retirement of bonds, see § 65-23-319.

§ 65-23-319. Bridges toll-free after bonds retired.

When the particular bonds issued for any bridge or bridges and the interest thereon shall have been paid, or a sufficient amount shall have been provided for their payment and shall continue to be held for that purpose, the county or counties issuing such bonds shall cease to charge tolls for the use of such bridge or bridges; and thereafter such bridge or bridges shall be free.

SOURCES: Codes, 1942, § 8447-60; Laws, 1964, ch. 277, § 10, eff from and after passage (approved June 6, 1964).

§ 65-23-321. Enforcement of bondholders' rights.

Any holder of any bonds issued under the provisions of this article or of any of the coupons attached thereto, and the trustee under the trust indenture, if any, except to the extent the rights herein given may be restricted by resolution passed before the issuance of the bonds or by the trust indenture, may either at law or in equity, by suit, action, mandamus, or other proceeding, protect and enforce any and all rights granted hereunder or under such resolution or trust indenture, and may enforce and compel performance of all duties required by this article or by such resolution or trust indenture, to be performed by the county or counties, its or their governing body, including the fixing, charging, and collecting of tolls for transit over such bridges.

SOURCES: Codes, 1942, § 8447-61; Laws, 1964, ch. 277, § 11, eff from and after passage (approved June 6, 1964).

§ 65-23-323. Grants and preliminary loans.

Any county or counties, acting pursuant to the terms of this article, in addition to the revenues which may be received from the sale of bridge revenue bonds and from the collection of tolls and other bridge revenues derived under the provisions of this article, shall have authority to receive and accept from any federal agency, or state, or state agency, or other political subdivisions, loans or grants for or in the aid of the construction or acquisition of any bridge, and to receive and accept contributions from any source of either money or property or other things of value, to be held, used, and applied only for the purpose for which such grants and contributions may be made.

Authority is hereby granted to any such county or counties to secure loans to finance planning of the bridges herein authorized from any governmental agency, repayable solely from the sale of said revenue bonds.

SOURCES: Codes, 1942, § 8447-62; Laws, 1964, ch. 277, § 12, eff from and after passage (approved June 6, 1964).

§ 65-23-325. Powers and duties of governing bodies of counties issuing bonds.

The governing body of any county or counties issuing its or their bonds under the provisions of this article shall have power to make and enter into all contracts or agreements necessary or incidental to the execution of its powers under this article, may employ engineering and construction experts, inspectors, attorneys, and such other employees as may be deemed necessary, and may fix their compensation. All such compensation and all expenses incurred in carrying out the provisions of this article shall be paid solely from funds provided under the authority of this article, and no liability or obligation shall be incurred hereunder beyond the extent to which money shall have been provided under the authority of this article. All public or private property damaged or destroyed in carrying out the powers granted under this article shall be restored or repaired and placed in its original condition, as nearly as practicable, or adequate compensation made therefor out of funds provided by this article.

The powers and duties of counties and the governing bodies thereof hereinabove enumerated in this article shall not be construed as a limitation on the general powers or duties of such counties or the governing bodies thereof. It shall be the duty of the governing body of any county or counties issuing its bonds pursuant to the provisions of this article, in addition to the powers and duties enumerated in this article, to do and perform any and all things and acts necessary in the construction, maintenance, and operation of any bridge to be constructed under the provisions of this article, to the end that such bridge or bridges may become and be operated free of tolls as early as possible and practicable, subject only to the express limitations of this article and the limitations of the other laws and constitutional provisions applicable thereto.

SOURCES: Codes, 1942, § 8447-63; Laws, 1964, ch. 277, § 13, eff from and after passage (approved June 6, 1964).

§ 65-23-327. Tax exemption.

The exercise of the powers conferred by this article constitute the performance of essential governmental functions, and as bridges which are owned and operated by counties constitute public property used for public purposes, such bridges shall at all times be free from taxation within the state. No county shall be required to pay taxes or assessments upon any such bridge or any part thereof owned by it, and bonds issued under the provisions of this article, their transfer, and the income therefrom shall at all times be free from taxation within the state.

SOURCES: Codes, 1942, § 8447-64; Laws, 1964, ch. 277, § 14, eff from and after passage (approved June 6, 1964).

§ 65-23-329. Construction and operation of article.

This article, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes hereof. But this article shall not be construed to repeal the laws under which any bridge has heretofore been constructed or operated by any county of the state and, as to such counties, the present laws shall remain in force and effect.

SOURCES: Codes, 1942, § 8447-65; Laws, 1964, ch. 277, § 15, eff from and after passage (approved June 6, 1964).

§ 65-23-331. Bonds not limited by issuing county's valuation of taxable property.

Such bonds may be issued for the purpose stated above and, regardless of the amount thereof, same shall not be subject to the limitations as to amount of bonded debt based upon amount of the assessed value of taxable property in a county.

SOURCES: Codes, 1942, § 8447-67; Laws, 1964, ch. 277, § 17, eff from and after passage (approved June 6, 1964).

CHAPTER 25

Mississippi River Bridges

Article 1. Mississippi River Bridge Revenue Bond Law 65-25-1
Article 3. Arkansas-Mississippi Bridge Commission 65-25-101
Article 4. Arkansas-Mississippi Great River Bridge Construction 65-25-121
Article 5. Mississippi-Louisiana Bridge Construction. [Repealed]

ARTICLE 1.

MISSISSIPPI RIVER BRIDGE REVENUE BOND LAW.

SEC.
65-25-1. Citation.
65-25-3. Issuance of bridge revenue bonds.
65-25-5. Definitions.
65-25-7. Purchase of bridges.
65-25-9. Condemnation of bridges and property.
65-25-11. Improvement of bridges acquired.
65-25-13. Construction of bridges.
65-25-15. Bridge revenue bonds.
65-25-17. Lien upon bond proceeds.
65-25-19. Trust indenture.
65-25-21. Bridge tolls.
65-25-23. Contributions apart from bridge earnings.
65-25-25. Cessation of tolls.
65-25-27. Remedies of bondholders and trustee.
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65-25-57. Limitation on costs of managing bridge properties.
65-25-59. Audit.
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65-25-63. Payment to municipality in lieu of taxes.

§ 65-25-1. Citation.

This article shall be known, and may be cited, as the "Mississippi River Bridge Revenue Bond Law".

SOURCES: Codes, 1942, § 8448; Laws, 1938, ch. 283.

Cross References — Creation of interstate bridge districts, see §§ 65-23-201 et seq. Creation of Mississippi River bridge commission, see § 65-25-43.

§ 65-25-3. Issuance of bridge revenue bonds.

Any county or city in this state is hereby authorized and empowered:

(a) To acquire by purchase or by condemnation and to construct, or partly acquire and partly construct, and to improve, operate, and maintain bridges wholly or partially within the state within such county or city or within twenty miles of the territory over which such county or city has jurisdiction and which are over the Mississippi River; and

(b) To issue bridge revenue bonds of such county or city, payable from bridge earnings, to pay the cost of such bridges.

No revenue bonds and no liens securing such bonds shall be repaid in whole or in part from any funds arising from taxation, nor shall any such bonds or liens given under authority of this article constitute a lien on any other property of a city or county other than the bridge constructed or acquired under this article or a pledge of the credit of such agency unless specifically so voted by a majority of the qualified electors voting in favor of same in an election held according to law for the purpose of so authorizing.

SOURCES: Codes, 1942, § 8449; Laws, 1938, ch. 283.

Cross References — Condemnation of bridges and property, see § 65-25-9.

JUDICIAL DECISIONS

1. In general.

The traditional view that county boards of supervisors are limited in their authority to that delegated to them by the legislature has been significantly relaxed by the enactment of § 19-3-40. Cook v. Board of Supvrs., 571 So. 2d 932 (Miss. 1990).

Chapter 74, Laws of Extraordinary Session, 1953, only validated all acts and proceedings of the Board of Supervisors of Warren County in relation to the issuance and sale of Vicksburg bridge revenue refunding bonds dated January 1, 1954, and the application of the bridge revenues to the payment thereof as they matured, and did not validate the acts of the board in diverting a part of the tolls received from the operation of the Vicksburg bridge to the use of the county for general county purposes. State ex rel. Patterson v. Board of Supvrs., 233 Miss. 240, 102 So. 2d 198 (1958), adhered to, 239 Miss. 671, 123 So. 2d 695 (1960), corrected, 239 Miss. 676, 125 So. 2d 91 (1960), but see Cook b. Board of Supvrs., 571 So. 2d 932 (Miss. 1990).

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations § 385.

§ 65-25-5. Definitions.

As used in this article, the following words and terms shall have the following meanings:

(a) The word "municipality" shall be deemed to include any county or city in this state.

(b) The word "bridge" shall be deemed to include the substructure and the superstructure of the bridge and the approaches thereto and also all property, rights, easements, and franchises relating thereto and deemed necessary or convenient for the operation thereof, and shall embrace bridges which are now in existence or hereafter constructed and wholly or partly within the municipality or are within twenty miles of the territory over which such municipality has jurisdiction and which are over the Mississippi River, and shall also embrace combined railroad and highway bridges, as well as highway bridges.

(c) The term "governing body" shall mean the board of supervisors of a county or the council, board of aldermen, or other legislative body of a city.

(d) The word "improvements" shall mean such repairs, replacements, additions, and betterments of and to a bridge acquired by purchase or by condemnation as are deemed necessary to place it in a safe and efficient condition for the use of the public, if such repairs, replacements, additions, and betterments are ordered prior to the sale of any bonds for the acquisition of such bridge.

(e) The term "cost of bridge", as applied to a bridge to be acquired by purchase or by condemnation, shall include the purchase price or the amount of the award, cost of improvements, financing charges, interest during any period of disuse before completion of improvements, cost of traffic estimates and of engineering and legal expenses, plans, specifications and surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized, and the acquisition of the bridge and the placing of the bridge in operation.

(f) The term "cost of bridge", as applied to a bridge to be constructed, shall embrace the cost of construction, the cost of all land, property, rights, easements, and franchises acquired, which are deemed necessary for such construction, the cost of all machinery and equipment, financing charges, interest prior to and during construction and for six months after completion of construction, cost of traffic estimates and of engineering and of legal expenses, plans, specifications, surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized and the construction of the bridge and the placing of the bridge in operation.

(g) The word "owner" shall include all individuals, incorporated companies, copartnerships, societies, or associations having any title or interest in any property, rights, easements, or franchises authorized to be acquired by this article.

SOURCES: Codes, 1942, § 8450; Laws, 1938, ch. 283.

RESEARCH REFERENCES

Am Jur. 39 Am. Jur. 2d, Highways, Streets, and Bridges §§ 10, 11, 44.

CJS. 11 C.J.S., Bridges § 2.

§ 65-25-7. Purchase of bridges.

Any municipality is hereby authorized and empowered to acquire by purchase, whenever it shall deem such purchase expedient, any toll bridge located as provided in Section 65-25-3, or any such toll bridge partly constructed, or any franchises, easements, permits, or contracts for the construction of any such bridge, or any such toll bridge or facilities thereof which may be under lease in whole or in part and which may be so acquired subject to the terms of such lease, all upon such terms and at such prices as may be reasonable and can be agreed upon between such municipality and the owner thereof, title thereto to be taken in the name of such municipality. For the purpose of paying the cost of such acquisition, any municipality is hereby authorized and empowered to issue its bridge revenue bonds as hereinafter provided.

SOURCES: Codes, 1942, § 8451; Laws, 1938, ch. 283.

Cross References — Condemnation of bridges and property, see § 65-25-9.
Bridge revenue bonds, see §§ 65-25-15 et seq.

RESEARCH REFERENCES

CJS. 11 C.J.S., Bridges § 49.

§ 65-25-9. Condemnation of bridges and property.

Any municipality, whenever a reasonable price cannot be agreed upon, or whenever the owner is legally incapacitated or is absent or is unable to convey valid title or is unknown, is hereby authorized and empowered to acquire by condemnation any such bridge or bridges or interest or interests therein, and any land, rights, easements, franchises, and other property deemed necessary or convenient for the improvement or the efficient operation of any property acquired or constructed under this article, or for the purpose of constructing any bridge or portion thereof hereunder, or for securing right of way leading to any such bridge or its approaches, in the manner hereinafter provided. Such condemnation proceedings shall be instituted by a written application of the governing body of such municipality and shall be conducted, and the compensation to be paid shall be ascertained and paid, in the manner provided by Chapter 33, Title 11, Mississippi Code of 1972, or by the laws of the state where such proceedings may be conducted. And any municipality is further authorized and empowered to exercise in this state and in any adjoining state such powers of eminent domain as may be conferred upon such municipality by any act of the Congress of the United States now in force or which may hereafter be enacted. Title to any property condemned by a municipality shall be taken in its name. No municipality shall be under any obligation to accept and pay for any property condemned or any costs incidental to any condemnation proceedings, and shall, in no event, pay for the same except from the funds provided by this article. In any condemnation proceedings, the court having jurisdiction of the suit, action, or proceedings may make such orders as may be just to such municipality and to the owners of the property to be condemned, and may require an undertaking or other security to secure such owners against any loss or damage to be sustained by reason of the failure of such municipality to accept and pay for the property; but such undertaking or security shall impose no liability upon such municipality, except such as may be paid from the funds provided under the authority of this article.

SOURCES: Codes, 1942, § 8452; Laws, 1938, ch. 283.

Cross References — Eminent domain generally, see §§ 11-27-1 et seq.

Eminent domain powers of board of supervisors in acquiring rights of way for public roads, see § 65-7-89.

Eminent domain powers of commissioners of interstate bridge district, see § 65-23-229.

Purchase of land for construction of bridges, see § 65-25-13.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

§ 65-25-11. Improvement of bridges acquired.

It shall be the duty of the governing body of any municipality, at or before the time any such bridge shall be acquired by such municipality by purchase or by condemnation, to determine what repairs, replacements, additions, or betterments will be necessary to place the bridge in safe and efficient condition for the use of the public, and to cause an estimate of the cost of such improvement to be made. The governing body of the municipality shall authorize such improvements before the sale of any bridge revenue bonds for the acquisition of such bridge, and the cost of such improvements shall be paid for out of the proceeds of such bonds.

SOURCES: Codes, 1942, § 8453; Laws, 1938, ch. 283.

§ 65-25-13. Construction of bridges.

Any municipality is hereby authorized and empowered to construct, whenever it shall deem such construction expedient, any toll bridge located as provided in Section 65-25-3. Such municipality is hereby authorized to purchase within this state and within any adjoining state, solely from funds provided under the authority of this article, such lands, structures, rights of way, franchises, easements, and other interests in lands, including lands under water and riparian rights of any person, copartnership, association, railroad or other corporation, or municipality or political subdivision, deemed necessary for the construction of any such bridge, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof, and to take title thereto in the name of such municipality. The State of Mississippi hereby consents to the use of all lands lying under water, which are within the state and are necessary for the construction and operation of any such bridge and the approaches and appurtenances thereto.

SOURCES: Codes, 1942, § 8454; Laws, 1938, ch. 283.

§ 65-25-15. Bridge revenue bonds.

The governing body of any municipality is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of bridge revenue bonds of such municipality for the purpose of paying the cost as hereinabove defined of any one or more such bridges, which resolution shall recite an estimate of such cost. The principal and interest of such bonds shall be payable solely from the special fund herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rate or rates not exceeding six percent (6%) per annum, payable semiannually, shall mature at such time or times, not exceeding forty years from their date or dates, as may be determined by the governing body of such municipality, and may be made redeemable before maturity, at the option of the municipality, at such price or prices and under such terms and conditions as may be fixed by the governing body of such municipality prior to the issuance of the bonds. The principal and interest of such bonds may be made payable in any lawful medium. The governing body of such municipality shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest thereof, which may be at any bank or trust company within or without the state. The bonds and any interest coupons attached thereto shall be executed in such manner as shall be determined by the governing body of the municipality. In case any officer whose signature shall appear on the bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bridge revenue bonds issued under the provisions of this article shall have and are hereby declared to have, as between successive holders, all the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the state. Provision may be made for the registration of any of the bonds in the name of the owner as to principal alone and also as to both principal and interest and for the issuance of new coupon bonds in exchange for bonds registered as to both principal and interest. The governing body of such municipality may sell such bonds in such manner and for such price as it may determine to be for the best interests of such municipality, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than six per centum per annum, computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values. The proceeds of such bonds shall be used solely for the payment of the cost of the bridge or bridges, and shall be disbursed under such restrictions, if any, as the governing body thereof may provide. If the proceeds of such bonds, by error of calculation or otherwise, shall be less than the cost of the bridge or bridges, additional bonds may in like manner be issued to provide the amount of such deficit, and unless otherwise provided in the trust indenture hereinafter mentioned, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same bridge or bridges. If the proceeds of bonds issued for any bridge or bridges shall exceed the cost thereof, the surplus shall be paid into the fund hereinafter provided for the payment of principal and interest of such bonds. Prior to the preparation of definitive bonds, the municipality may, under like restrictions, issue temporary bonds, with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. The governing body of any such municipality may also provide for the replacement of any bond which shall become mutilated or be destroyed or lost. Such bridge revenue bonds may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, and things which are specified and required by this article. The powers conferred by this article shall be in addition to the power conferred by any other law, general, special or local, and this article, without reference to any other statute or to any charter, shall be deemed full authority for the purpose hereof. In the discretion of the governing body of any municipality, bridge revenue bonds of a single issue may be issued for the purpose of paying the cost of any one or more bridges.

SOURCES: Codes, 1942, § 8455; Laws, 1938, ch. 283.

Cross References — Bond issue for interstate bridge districts, see § 65-23-221.

Lien upon bond proceeds, see § 65-25-17.

Negotiable instruments under the Mississippi Uniform Commercial Code, see §§ 75-3-101 et seq.

§ 65-25-17. Lien upon bond proceeds.

All moneys received from any bridge revenue bonds issued pursuant to this article shall be applied solely to the payment of the cost of the bridge or bridges, or to the appurtenant sinking fund, and there is hereby created and granted a lien upon such moneys until so applied, in favor of the holders of such bonds or the trustee hereinafter provided in respect of such bonds.

SOURCES: Codes, 1942, § 8456; Laws, 1938, ch. 283.

§ 65-25-19. Trust indenture.

In the discretion of the governing body of any municipality issuing its bonds under the provisions of this article, each or any issue of such bonds may be secured by a trust indenture by and between such municipality and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside of the state, which trust indenture may, in the discretion of the governing body, convey or mortgage the revenues, the bridge, or any part thereof.

Either the resolution providing for the issuance of bridge revenue bonds or such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of such municipality and the governing body thereof in relation to the acquisition, construction, improvement, maintenance, operation, repair, and insurance of the bridges, and the custody, safeguarding, and application of all moneys; and may also provide that the bridge or bridges shall be acquired, constructed, or partly acquired and partly constructed, and paid for under the supervision and approval of consulting engineers employed or designated by the governing body of such municipality and satisfactory to the original purchasers of the bonds issued therefor; and may also require that the security given by contractors and by any depository of the proceeds of the bonds or revenues of the bridges or other moneys pertaining thereto be satisfactory to such purchasers. It shall be lawful for any bank or trust company incorporated under the laws of this state to act as such depository and to furnish such indemnifying bonds or to pledge such securities as may be required by the governing body of such municipality. Such indenture may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action of bondholders as is customary in trust indentures securing bonds and debentures of corporations. Except as in this article otherwise provided, the governing body of such municipality may provide, by resolution or by such trust indenture, for the payment of the proceeds of the sale of the bonds and the revenues of the bridges to such officer, board, or depository as it may determine for the custody thereof and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation, and repair of the bridge or bridges affected by such indenture.

SOURCES: Codes, 1942, § 8457; Laws, 1938, ch. 283.

§ 65-25-21. Bridge tolls.

The governing body of any municipality issuing its bonds under the provisions of this article is hereby authorized to fix and to revise from time to time tolls for transit over such bridges, to charge and collect the same, and to contract with any person, partnership, association, or corporation desiring the use of any bridge, its approaches, appurtenances, or any part thereof for placing thereon water, gas, oil pipe lines, telephone, telegraph, electric light or power lines, railroad or street railway tracks, or for any other purpose, and to fix the terms, conditions, rates, and charges for such use. Such tolls shall be so fixed and adjusted, in respect of the aggregate of tolls from the bridge or bridges for which a single issue of bonds is issued, as to provide a fund sufficient, with other revenues of the bridge or bridges, if any, to pay (a) the cost of maintaining, repairing, and operating such bridge or bridges unless such cost shall be otherwise provided for, and (b) the bonds and the interest thereon as the same become due, subject, however, to any applicable law or regulation of the United States of America now in force or hereafter to be enacted or made. Such tolls shall not be subject to supervision or regulation by any state commission, board, bureau, or agency. The tolls from the bridge or bridges for which a single issue of bonds is issued, except such part thereof as may be required to pay the cost of maintaining, repairing, and operating the bridge or bridges and to provide such reserves therefor as may be provided in the resolution authorizing the issuance of the bonds or in the trust indenture, shall be set aside at such regular intervals as may be provided in such resolution or such trust indenture, in a sinking fund which is hereby pledged to, and charged with the payment of, (1) the interest upon such bonds as such interest shall fall due, (2) the principal of the bonds as the same shall fall due, (3) the necessary fiscal agency charges for paying principal and interest, and (4) any premium upon bonds retired by call or purchase as herein provided. The use and disposition of such sinking fund shall be subject to such regulations as may be provided in the resolution authorizing the issuance of bonds or in the trust indenture, but, except as may otherwise be provided in such resolution or trust indenture, such sinking fund shall be a fund for the benefit of all bonds without distinction or priority of one over another. Subject to the provisions of the resolution authorizing the issuance of bonds or of the trust indenture, any moneys in such sinking fund in excess of an amount equal to one year's interest on all bonds then outstanding may be applied to the purchase or redemption of bonds. All bonds so purchased or redeemed shall forthwith be cancelled and shall not again be issued.

Upon the letting of a contract for the construction of a bridge under the provisions of this article, it shall be the duty of state highway commission to proceed with the construction of any highways which may be necessary to connect such bridge with the highway system of the state and to complete the construction of such connecting highway or highways on or before the date such bridge shall be opened for traffic.

SOURCES: Codes, 1942, § 8458; Laws, 1938, ch. 283.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

Cross References — General prohibition against collection of tolls on state highways, see § 65-3-1.

Tolls on interstate bridges, see § 65-23-225.

JUDICIAL DECISIONS

1. In general.

Chapter 74, Laws of Extraordinary Session, 1953, only validated all acts and proceedings of the Board of Supervisors of Warren County in relation to the issuance and sale of Vicksburg Bridge revenue refunding bonds dated January 1, 1954, and the application of the bridge revenues to the payment thereof as they matured, and did not validate the acts of the board in diverting a part of the tolls received from the operation of the Vicksburg Bridge to the use of the county for general county purposes. State ex rel. Patterson v. Board of Supvrs., 233 Miss. 240, 102 So. 2d 198 (1958), adhered to, 239 Miss. 671, 123 So. 2d 695 (1960), corrected, 239 Miss. 676, 125 So. 2d 91 (1960), but see Cook b. Board of Supvrs., 571 So. 2d 932 (Miss. 1990).

RESEARCH REFERENCES

Am Jur. 40 Am. Jur. 2d, Highways, Streets, and Bridges § 683.

§ 65-25-23. Contributions apart from bridge earnings.

Notwithstanding any of the foregoing provisions of Section 65-25-21, any municipality other than the state may, by resolution or ordinance passed prior or subsequent to the issuance of its bonds under the provisions of this article, or by such trust indenture, covenant to contribute funds apart from bridge earnings to pay all or any part of the cost of maintaining, repairing, and operating any bridge or bridges acquired, constructed, or improved by it under the provisions of this article, and may likewise covenant to make such contribution to the payment of bonds and the interest thereon issued pursuant to this article, by another municipality. Such covenant, authorized by such resolution, ordinance, or trust indenture, shall have the force of a contract between such municipality and the holders of the bonds issued on account of such bridge or bridges, and shall obligate the municipality to raise such funds. Any municipality in the state may aid any other municipality in the state and contribute funds to pay any part of the cost of acquiring, constructing, maintaining, repairing, and operating any bridge or bridges; and the twenty miles limitation contained in Section 65-25-3 shall have no application and shall not be construed to restrict such municipality from contributing such funds to aid the municipality which issues its revenue bonds as herein provided. But no such contribution shall be made unless authorized by a majority of the qualified electors voting in favor of same in an election held according to law for the purpose of so authorizing.

No municipality shall enter into any contract or covenant provided for in the first paragraph of this section without there being first held an election in which a majority of those voting shall authorize said covenant or contract to be entered into by said municipality.

The State of Mississippi, acting by and through the state highway commission as an agency thereof, may receive from the federal government or any agency thereof funds specifically allotted or appropriated by the federal government for constructing, acquiring, maintaining, and repairing bridges across the Mississippi River, which the state highway commission may by resolution allocate to pay the costs or any part thereof of constructing, acquiring, maintaining, repairing, and operating any bridge or bridges acquired, constructed, or improved under this article and to the payment of principal and interest of such bonds.

SOURCES: Codes, 1942, § 8459; Laws, 1938, ch. 283; Laws, 1938, Ex. ch. 75.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 65-25-25. Cessation of tolls.

When the particular bonds issued for any bridge or bridges and the interest thereon shall have been paid, or a sufficient amount shall have been provided for their payment and shall continue to be held for that purpose, the municipality issuing such bonds shall cease to charge tolls for the use of such bridge or bridges; and thereafter such bridge or bridges shall be free unless tolls are required for maintaining, repairing, and operating such bridge or bridges due to the lack of funds from other sources than tolls. Such provisions shall not apply to common carriers, transportation companies, bus lines, and any one transporting passengers or freight for hire, but shall apply only to the use of highway portion of bridge by traveling public and, as respects any other use, the municipality may continue to fix and collect such tolls and charges as it may deem in the public interest.

SOURCES: Codes, 1942, § 8460; Laws, 1938, ch. 283.

JUDICIAL DECISIONS

1. In general.

The traditional view that county boards of supervisors are limited in their authority to that delegated to them by the legislature has been significantly relaxed by the enactment of § 19-3-40. Cook v. Board of Supvrs., 571 So. 2d 932 (Miss. 1990).

Chapter 74, Laws of Extraordinary Session, 1953, only validated all acts and proceedings of the Board of Supervisors of Warren County in relation to the issuance and sale of Vicksburg bridge revenue refunding bonds dated January 1, 1954, and the application of the bridge revenues to the payment thereof as they matured, and did not validate the acts of the board in diverting a part of the tolls received from the operation of the Vicksburg Bridge to the use of the county for general county purposes. State ex rel. Patterson v. Board of Supvrs., 233 Miss. 240, 102 So. 2d 198 (1958), adhered to, 239 Miss. 671, 123 So. 2d 695 (1960), corrected, 239 Miss. 676, 125 So. 2d 91 (1960), but see Cook b. Board of Supvrs., 571 So. 2d 932 (Miss. 1990).

§ 65-25-27. Remedies of bondholders and trustee.

Any holder of any bonds issued under the provisions of this article or of any of the coupons attached thereto, and the trustee under the trust indenture, if any, except to the extent the rights herein given may be restricted by resolution passed before the issuance of the bonds or by the trust indenture, may either at law or in equity, by suit, action, mandamus, or other proceeding, protect and enforce any and all rights granted hereunder or under such resolution or trust indenture, and may enforce and compel performance of all duties required by this article, or by such resolution or trust indenture, to be performed by the municipality, its governing body, or by the state highway commission, or any officer thereof, including the fixing, charging, and collecting of tolls for transit over such bridges.

SOURCES: Codes, 1942, § 8461; Laws, 1938, ch. 283.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 65-25-29. Contributions.

Any municipality, in addition to the revenues which may be received from the sale of bridge revenue bonds and from the collection of tolls and other bridge revenues derived under the provisions of this article, shall have authority to receive and accept from any federal agency, state, state agency, municipality, municipal agency, or other political subdivision grants for or in the aid of the construction or acquisition of any bridge, and to receive and accept contributions from any source of either money or property or other things of value, to be held, used, and applied only for the purpose for which such grants and contributions may be made.

SOURCES: Codes, 1942, § 8462; Laws, 1938, ch. 283.

§ 65-25-31. Competing bridges and ferries.

No bridge for the use of the traveling public located as provided in Section 65-25-3 shall hereafter be constructed and operated by any county, municipal corporation, or political subdivision of the state, or by any person, copartnership, association, or corporation, and no franchise shall hereafter be granted for the operation of a ferry within fifteen miles of any toll bridge for the acquisition or construction of which bridge revenue bonds shall have been authorized under this article, except under a written permit granted by the state highway commission. No such permit shall be granted by the state highway commission until it shall ascertain by an investigation, including a hearing upon such notice and under such rules as the commission may prescribe, that there is an urgent public need for the operation of such bridge or such ferry, and that its operation will not affect the revenues of any bridge purchased or constructed under the provisions of this article so as to impair the security of any bridge revenue bonds issued for the acquisition or construction of such bridge.

SOURCES: Codes, 1942, § 8463; Laws, 1938, ch. 283.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

RESEARCH REFERENCES

Am Jur. 35A Am. Jur. 2d, Ferries §§ 31-35.

40 Am. Jur. 2d, Highways, Streets, and Bridges § 688.

CJS. 11 C.J.S., Bridges § 45.

36A C.J.S., Ferries § 13.

§ 65-25-33. General powers of municipalities.

The governing body of any municipality issuing its bonds under the provisions of this article shall have power to make and enter into all contracts or agreements necessary or incidental to the execution of its powers under this article, may employ engineering, architectural and construction experts, inspectors, attorneys, and such other employees as may be deemed necessary, and may fix their compensation. All such compensation and all expenses incurred in carrying out the provisions of this article shall be paid solely from funds provided under the authority of this article, and no liability or obligation shall be incurred hereunder beyond the extent to which money shall have been provided under the authority of this article. Any municipality may exercise any powers which may be conferred upon it by acts of the Congress of the United States or any adjoining state in which a portion of such bridge may be located or which are necessary or convenient for the execution of its powers under this article. All public or private property damaged or destroyed in carrying out the powers granted under this article shall be restored or repaired and placed in its original condition, as nearly as practicable, or adequate compensation made therefor out of funds provided by this article.

The powers and duties of municipalities and the governing bodies thereof hereinabove enumerated in this article shall not be construed as a limitation on the general powers or duties of such municipalities or the governing bodies thereof. It shall be the duty of the governing body of any municipality issuing its bonds pursuant to the provisions of this article, in addition to the powers and duties enumerated in this article, to do and perform any and all things and acts necessary in the construction or acquisition, maintenance, and operation of any bridge to be constructed or acquired under the provisions of this article, to the end that such bridge or bridges may become and be operated free of tolls as early as possible and practicable, subject only to the express limitations of this article and the limitations of the other laws and constitutional provisions applicable thereto.

SOURCES: Codes, 1942, § 8464; Laws, 1938, ch. 283.

Cross References — General powers of municipalities, see §§ 21-17-1 et seq. Cessation of tolls, see § 65-25-25.

JUDICIAL DECISIONS

1. In general.

The traditional view that county boards of supervisors are limited in their authority to that delegated to them by the legislature has been significantly relaxed by the enactment of § 19-3-40. Cook v. Board of Supvrs., 571 So. 2d 932 (Miss. 1990).

Chapter 74, Laws of Extraordinary Session, 1953, only validated all acts and proceedings of the Board of Supervisors of Warren County in relation to the issuance and sale of Vicksburg bridge revenue refunding bonds dated January 1, 1954, and the application of the bridge revenues to the payment thereof as they matured, and did not validate the acts of the board in diverting a part of the tolls received from the operation of the Vicksburg Bridge to the use of the county for general county purposes. State ex rel. Patterson v. Board of Supvrs., 233 Miss. 240, 102 So. 2d 198 (1958), adhered to, 239 Miss. 671, 123 So. 2d 695 (1960), corrected, 239 Miss. 676, 125 So. 2d 91 (1960), but see Cook b. Board of Supvrs., 571 So. 2d 932 (Miss. 1990).

§ 65-25-35. Bridge revenue refunding bonds.

Any municipality is hereby authorized to provide by resolution for the issuance of bridge revenue refunding bonds of such municipality for the purpose of refunding any bridge revenue bonds issued under the provisions of this article and then outstanding. The issuance of such bridge revenue refunding bonds, the maturities and other details thereof, the rights of the holders thereof, and the duties of such municipality and of any other municipality or the state highway commission in respect to the same, shall be governed by the foregoing provisions of this article insofar as the same may be applicable, and by the following provisions:

(a) No bridge revenue refunding bonds shall be delivered unless delivered in exchange for bridge revenue bonds to be refunded thereby, except in the amount necessary to provide for the payment of matured or redeemable bridge revenue bonds or bridge revenue bonds maturing or redeemable within three months, including any redemption premium thereon.

(b) No bridge revenue refunding bonds shall be issued unless issued to refund bridge revenue bonds which have matured or will mature within six months, or unless the interest rate of the bridge revenue refunding bonds shall be at least one fourth of one percent (¼ of 1%) less than the interest rate borne by the bridge revenue bonds to be refunded.

SOURCES: Codes, 1942, § 8465; Laws, 1938, ch. 283.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations § 385.

§ 65-25-37. Bridges and bonds exempt from taxation.

The exercise of the powers conferred by this article constitute the performance of essential governmental functions, and as bridges which are owned and operated by municipalities constitute public property used for public purposes, such bridges shall at all times be free from taxation within the state. No municipality shall be required to pay taxes or assessments upon any such bridge or any part thereof owned by it, whether located within or without the corporate limits of such municipality, and bonds issued under the provisions of this article, their transfer, and the income therefrom (including any profits made on the sale thereof) shall at all times be free from taxation within the state.

SOURCES: Codes, 1942, § 8466; Laws, 1938, ch. 283.

Cross References — Payments to municipalities in lieu of taxes, see § 65-25-63.

§ 65-25-39. Article liberally construed.

This article, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes hereof. But this article shall not be construed to repeal the laws under which any bridge has heretofore been constructed or operated by any county of the state and, as to such counties, the present laws shall remain in force and effect.

SOURCES: Codes, 1942, § 8467; Laws, 1938, ch. 283.

§ 65-25-41. Debt limitations not to apply.

Such bonds may be issued for the purpose herein and, regardless of the amount thereof, same shall not be subject to the limitations as to amount of bonded debt based upon amount of the assessed value of taxable property, in a municipality or county.

SOURCES: Codes, 1942, § 8469; Laws, 1938, ch. 283.

§ 65-25-43. Bridge commission may be created.

The governing authorities of any county or city of this state which has acquired or may hereafter acquire any combined railroad and highway bridge over the Mississippi River, as authorized by Sections 65-23-1 through 65-23-21 or Sections 65-25-1 through 65-25-41, and has issued its bridge revenue bonds for the purpose of financing the cost of such acquisition may, by appropriate resolution, create a commission of not less than five nor more than seven members to manage the affairs of said bridge, said appointees to be qualified electors of such governing body of high character, integrity, and business acumen.

The board of supervisors of such county or the governing authority of such city may, by such resolution, prescribe the tenure of office of such commissioners (but no appointment shall be for a term exceeding five years), may prescribe the duties, powers and rights of such commission and provide for the reasonable compensation, if any, of such commissioners. Said resolution shall not impair or enlarge nor the acts of said commissioners thereunder increase or diminish the obligations of said governing body under the trust indenture or resolution under which the revenue bonds of such body were issued; and the acts of such commissioners shall regularly, and not less than four times each year, be reported to such governing body and be subject to its approval and concurrence.

SOURCES: Codes, 1942, § 8469.5; Laws, 1948, ch. 422, §§ 1-4.

Cross References — Appointment of interstate bridge commissioners, see §§ 65-23-205, 65-23-207.

RESEARCH REFERENCES

Am Jur. 40 Am. Jur. 2d, Highways, Streets, and Bridges § 685.

§ 65-25-45. General powers of commissioners.

The commissioners appointed by such governing body or municipality shall, subject to the approval of such governing body, have the following authority, powers and rights: Said commissioners may adopt reasonable bylaws for the conduct of said commission. Said commissioners shall be governed by and fulfill the terms and provisions of the trust indenture or resolution under which the revenue bonds of such governing body were issued, and in so doing the commission shall manage and control the bridge, the approaches thereto, and all appurtenant and physical properties connected therewith, both real and personal, and shall provide for the regular inspection, repair, maintenance and improvement of said bridge and its approaches. Said commission may make any contract and authorize any purchases from the funds realized from the revenues of said bridge and available under the trust indenture or resolution under which the bridge revenue bonds of the governing body were issued for the purposes of repairs, maintenance and improvements, which said contracts and purchases may, in the sound business judgment of the commission, be made without the necessity of prior advertisement or public bids. Said commissioners may employ a superintendent or manager of the bridge properties, fix the amount of his salary, either employ or delegate to said manager the employment of all subordinate personnel, provide for the wages and compensation of such subordinate employees, and shall require the said manager and such other employees as the commissioners may require to give bond, with sufficient surety, to be payable, conditioned and approved as provided by law, in a penalty equal to Ten Thousand Dollars ($10,000.00). The commissioners may place in effect, reclassify, revise and charge a schedule of tolls for transit over said bridge properties, and alter or revise the toll schedule as often as it shall appear necessary or proper; provide for the collection of such tolls and all other revenues and the safe handling and deposit of the funds so received, prepare such budgets and estimates alone or in connection with consulting engineers annually, or for such lesser period of time as may be deemed desirable; provide for an adequate bookkeeping system and regular audits, and keep or cause to be kept full and correct records of finances of said bridge; negotiate for all contracts incidental to or necessary for the proper insurance, maintenance, repair, improvement and operation of said bridge, including employer's liability insurance with medical benefits for those employed by the commission for the operation and maintenance of said bridge; do and perform all other acts and negotiate for all other contracts which in the sound judgment of the commissioners, meeting with the approval of the governing body issuing the revenue bonds, are desirable or necessary in the interest of the proper, efficient, and economical management and operation of the said bridge and the advancement of the business thereof, all toward the object of fulfilling the obligations in the trust indenture or resolution under which the governing body authorized and issued its revenue bonds, and toward the ultimate freeing of the said bridge from tolls, as to the vehicular portion thereof, at the earliest date possible.

SOURCES: Codes, 1942, § 8469.5; Laws, 1948, ch. 422, §§ 1-4; Laws, 1986, ch. 458, § 46, eff from and after October 1, 1986.

Editor's Note — Section 48, Chapter 458, Laws of 1986, provided that § 65-25-45 would stand repealed from and after October 1, 1989. Subsequently, three 1989 chapters (341, 342, and 343) amended Section 48, Chapter 458, Laws of 1986, by deleting the date for repeal.

Cross References — Bridge tolls generally, see § 65-25-21.

Cessation of tolls, see § 65-25-25.

JUDICIAL DECISIONS

1. In general.

The traditional view that county boards of supervisors are limited in their authority to that delegated to them by the legislature has been significantly relaxed by the enactment of § 19-3-40. Cook v. Board of Supvrs., 571 So. 2d 932 (Miss. 1990).

Chapter 74, Laws of Extraordinary Session, 1953, only validated all acts and proceedings of the Board of Supervisors of Warren County in relation to the issuance and sale of Vicksburg bridge revenue refunding bonds dated January 1, 1954, and the application of the bridge revenues to the payment thereof as they matured, and did not validate the acts of the board in diverting a part of the tolls received from the operation of the Vicksburg Bridge to the use of the county for general county purposes. State ex rel. Patterson v. Board of Supvrs., 233 Miss. 240, 102 So. 2d 198 (1958), adhered to, 239 Miss. 671, 123 So. 2d 695 (1960), corrected, 239 Miss. 676, 125 So. 2d 91 (1960), but see Cook b. Board of Supvrs., 571 So. 2d 932 (Miss. 1990).

§ 65-25-47. Records of bridge operation kept separate.

The governing body of such county or city shall cause to be kept separate minutes and records of the operation of such bridge properties available for public inspection, which minutes from time to time shall show the approval or disapproval of the actions of said commission. Concerning the management and operation of said bridge by the commission and the governing body of said city or county, there shall be no obligation on said commission, nor shall there be any general obligation on said city or county, other than from the revenues derived from the operation of said bridge properties and as may be set forth or provided for in the trust indenture or resolution under which the revenue bonds of such governing body were issued for the acquisition of said bridge properties.

SOURCES: Codes, 1942, § 8469.5; Laws, 1948, ch. 422, §§ 1-4.

§ 65-25-49. Commission to manage certain bridges.

The governing authorities of any county or city of this state which has acquired or may hereafter acquire any combined railroad and highway bridge over the Mississippi River, as authorized by Sections 65-23-1 through 65-23-21 or Sections 65-25-1 through 65-25-41, and which has discharged the bridge revenue bonds which were issued for the purpose of financing the cost of such acquisition and has freed the bridge as to the vehicular portion thereof from tolls may, by appropriate resolution, create a commission of five members to manage the affairs of said bridge, said appointees to be qualified electors of such governing body of high character, integrity, and business acumen; and, if such governing body has already created a commission under the provisions of Sections 65-25-43 through 65-25-47, then in lieu of creating another commission, the governing authorities of such county or city may, by order entered upon the minutes of such authority, continue the present commission in effect.

SOURCES: Codes, 1942, § 8469.5-01; Laws, 1966, ch. 315, § 1, eff from and after passage (approved June 15, 1966).

Cross References — Appointment, term and compensation of commissioners, see §§ 65-23-205, 65-23-207.

Authority and powers of commission, see § 65-25-53.

§ 65-25-51. Appointment, term, and compensation of members.

The board of supervisors of such county or the governing authority of such city shall appoint the members of such commission. In making the first appointments, one (1) member shall be appointed for a term of one (1) year, one (1) member for a term of two (2) years, one (1) member for a term of three (3) years, one (1) member for a term of four (4) years, and one (1) member for a term of five (5) years. If the governing authorities shall elect to continue an existing commission in effect, then the order so providing shall reappoint the membership of such commission for varying terms of from one (1) to five (5) years, as hereinabove provided in cases of a newly established commission and, thereafter, their successors shall be appointed for a term of five (5) years. Said governing authorities shall, by resolution entered upon their minutes, prescribe the duties, powers, and rights of such commission and provide for the reasonable compensation, if any, of such commissioners. The acts of such commissioners shall regularly, and not less than four (4) times each year, be reported to such governing body and be subject to its approval and concurrence.

SOURCES: Codes, 1942, § 8469.5-02; Laws, 1966, ch. 315, § 2; Laws, 1975, ch. 392, § 1, eff from and after passage (approved March 24, 1975).

§ 65-25-53. Authority of commission.

The commissioners appointed by such governing body or municipality, or the commissioners whose terms are continued in force as above authorized, shall, subject to the approval of such governing body, have the following authority, powers, and rights: Said commission shall manage and control the affairs of the bridge as a separate proprietary venture, apart from other public roads and bridges within the county, and shall provide for the regular inspection, repair, maintenance, and upkeep of said bridge and its approaches, which expenses and all liabilities which may exist or later come into being or be claimed to exist shall be wholly borne from the bridge properties themselves and the revenues received from the lease of such properties to private or public utilities. In connection with operating the affairs of the said bridge and maintaining the same, said commission is vested with the following powers and authority, subject to the veto power or approval of the governing body owning the said bridge, viz: (1) Contracts and purchases shall be made on the same basis and under the same requirements of advertisement for bids as those made by the board of supervisors; (2) the commissioners may employ a superintendent or manager of the bridge properties and fix the amount of his salary, and either employ or delegate to said manager the employment of subordinate personnel and provide for the wages and compensation of such employees, and, should the commission so determine, may require the manager or other employees to post bond in such sum as the commission may designate for the faithful discharge of their duties as such employees; however, the number of persons employed in an election year shall not exceed the average number employed during the preceding three (3) years, except that additional employees may be hired on a temporary basis in cases of emergency when the specific reasons therefor shall be entered on the minutes of the commission; (3) provide for an adequate bookkeeping system pertinent to the affairs of said bridge and for regular audits, with the revenues derived following the freeing of said bridge to vehicular traffic, if any there be over and above cost of operating and maintaining the said bridge, to be kept by the clerk of the said board or treasurer of the said municipality in a separate account and to so remain, properly invested in the same manner as sinking funds of the county or municipality may be invested, said assets to be subject to bear and discharge the liabilities of the said bridge and not to be utilized for any other or different purpose until a period of at least five (5) years following the freeing of the said bridge from tolls (unless sooner there be another free bridge constructed and opened to public travel crossing said Mississippi River located not more than one (1) mile from said bridge, in which event that factor, rather than the five-year time limit, shall be determinative), and then not until a determination is made by the board or governing authority that such funds, to the extent amassed, will not be further needed for operational maintenance purposes; and that said audits thus caused to be made shall be done by a certified public accountant or accountants duly qualified under the laws of this state; (4) that, without in anywise sacrificing or waiving the entire exempt status of the said bridge properties from ad valorem taxation, to pay a sum or sums in lieu of ad valorem taxes which, by agreement with the taxing authorities of this or any neighboring state, will in no event exceed in any year a sum equaling more than one-half (½) of the average amount paid per year by way of such taxes or in lieu thereof over the five-year period preceding June 15, 1966; (5) employ nationally recognized engineers and such other professional assistance as may be deemed necessary, and to pay reasonable compensation for such services; (6) to have and exercise any other authority and right conferred by existing laws, state or federal, applicable to the operation of such bridge; and (7) fulfill the requirements of any outstanding lease contracts to the extent that the bridge properties will permit and the revenues to be derived from such leases will allow, but without incurring any pecuniary liability on the part of the governing authorities or taxpayers generally.

SOURCES: Codes, 1942, § 8469.5-03; Laws, 1966, ch. 315, § 3; Laws, 1975, ch. 392, § 2, eff from and after passage (approved March 24, 1975).

Cross References — Payments to municipality in lieu of taxes, see § 65-25-63.

ATTORNEY GENERAL OPINIONS

Reimbursement to a lessee of maintenance costs pursuant to a particular lease pertaining to a bridge was not subject to the public purchase laws. Bailess, May 10, 2002, A.G. Op. #02-0190.

§ 65-25-55. Obligation in connection with operation of bridge.

The governing body of such county or city shall cause to be kept separate minutes and records of the operation of such bridge properties available for public inspection, which minutes from time to time shall show the approval or disapproval of the actions of said commission. Concerning the management and operation of said bridge by the commission and the governing body of said city or county, there shall be no obligation on said commission, nor shall there be any general obligation on said city or county, other than from the revenues to be derived from the operation of said bridge properties.

SOURCES: Codes, 1942, § 8469.5-04; Laws, 1966, ch. 315, § 4, eff from and after passage (approved June 15, 1966).

§ 65-25-57. Limitation on costs of managing bridge properties.

The said commission shall serve at the pleasure of the governing body of the political subdivision. Should said governing body not create the said commission, or should it determine following its creation to revoke the authority of and terminate the said commission, then the powers and authority hereby reposed shall vest in and be exercised by such governing body, the board of supervisors of said county or the governing authority of said city. Such governing body shall by appropriate order fix or approve the rules and regulations of the commission which shall assure that all the costs of administering the bridge properties shall be exclusively borne from bridge revenues and not from any funds derived from taxation; and said governing authority shall by appropriate order fix or approve the compensation, if any, of the commissioners and the extra fees and reasonable allowances to be paid to the clerk of said governing authority to reasonably compensate such clerk for the extra services and work hereby required. The combined total of all of such costs of administering and handling said funds, as above in this section particularized, shall not exceed seven and one-half percent (7½%) of the aggregate sum of the funds received from such bridge revenues and regulated by the provisions hereof; if the commission not be created or be discontinued, such percentage shall be not more than five percent (5%), and no member of the board of supervisors or governing body of such municipality shall be authorized by Sections 65-25-49 through 65-25-61 to receive any additional compensation.

SOURCES: Codes, 1942, § 8469.5-05; Laws, 1966, ch. 315, § 5, eff from and after passage (approved June 15, 1966).

§ 65-25-59. Audit.

The bridge commission shall be subject to the same type of audit as the boards of supervisors of the counties of the state.

SOURCES: Codes, 1942, § 8469.5-06; Laws, 1966, ch. 315, § 6, eff from and after passage (approved June 15, 1966).

Cross References — Functions of county auditor generally, see §§ 19-17-1 to 19-17-21.

§ 65-25-61. Law supplemental to other statutes.

Sections 65-25-49 through 65-25-61 shall be in addition to and supplemental to all other laws pertinent to the operation of said bridge but, to the extent the subjects herein contained are covered in such prior enactments, the cited sections and the enactments hereof shall be deemed to supersede such former laws and enactments.

SOURCES: Codes, 1942, § 8469.5-07; Laws, 1966, ch. 315, § 7, eff from and after passage (approved June 15, 1966).

§ 65-25-63. Payment to municipality in lieu of taxes.

The governing authorities of any county which has heretofore issued bridge revenue bonds or bridge revenue refunding bonds for the purpose of acquiring a combined highway and railway bridge over the Mississippi River as authorized under the provisions of Sections 65-25-1 through 65-25-41 may, in their discretion and in lieu of taxes, annually pay to any municipality of this state in which the portion of said bridge properties lying within the State of Mississippi are located a sum not exceeding that required to be paid and paid by way of ad valorem taxes for the year 1961 within or to a sister state or the political subdivisions thereof. Such payment or payments in lieu of taxes as are hereby authorized and as may be determined upon by the board of supervisors of any county owning such bridge, concurred in by any commission appointed under authority of Sections 65-25-43 through 65-25-47, to have control over the affairs of said bridge, shall be made from any fund created by such bond resolution or indenture enabling the caring for of contingencies not otherwise provided for. However, in no event shall such payment or payments impair any debt service fund or debt service reserve fund or lessen the minimum amount by said bond resolution or indenture required to be carried in any debt service fund or debt service reserve fund created by said resolution or indenture.

The municipality, upon receipt of such payment or payments, must treat and account for the same just as though and as if such funds had been received from ad valorem taxation for general municipal purposes.

SOURCES: Codes, 1942, § 8469.7; Laws, 1962, ch. 264, §§ 1-3, eff from and after passage (approved May 25, 1962).

Cross References — Tax exemption of bridges, see § 65-25-37.

ARTICLE 3.

ARKANSAS-MISSISSIPPI BRIDGE COMMISSION.

SEC.

65-25-101. Compact with State of Arkansas.
65-25-103. Effect of signing compact.
65-25-105. Vacancies on commission.
65-25-107. Congressional approval of compact.

§ 65-25-101. Compact with State of Arkansas.

The Governor, by and with the advice and consent of the Senate, shall appoint three (3) commissioners to enter into a compact on behalf of the State of Mississippi with the State of Arkansas. If the Senate is not in session at the time for making such appointments, the Governor shall make temporary appointments as in the case of a vacancy. Any two (2) of the commissioners so appointed, together with the Attorney General of the State of Mississippi, may act to enter into the following compact:

COMPACT BETWEEN ARKANSAS AND MISSISSIPPI CREATING AN ARKANSAS-MISSISSIPPI BRIDGE COMMISSION

Article I

There is hereby created an Arkansas-Mississippi Bridge Commission (hereinafter referred to as the commission) which shall be a body corporate and politic and which shall have the following powers and duties:

1. To plan, construct, maintain and operate a bridge and approaches thereto across the Mississippi River at or near Helena, Arkansas, and Friars Point, Mississippi, at a point deemed by the commission as most suitable to the interests of the citizens of the States of Arkansas and Mississippi in accordance with the provisions of an act of the Seventy-Ninth Congress, Second Session, of the United States entitled "The General Bridge Act of 1946";
2. To purchase, maintain and, in its discretion, to operate all or any ferries across the Mississippi River within twenty-five miles of the site selected for the bridge;
3. To contract, to sue and be sued in its own name; to purchase or otherwise acquire, hold and dispose of real and personal property;
4. To acquire by proper condemnation proceedings such real property as may be necessary for the construction and operation of the bridge and the approaches thereto;
5. To issue bonds on the security of the revenues derived from the operation of the bridge and ferries for the payment of the cost of the bridge, its approaches, ferry or ferries, and the necessary lands, easements and appurtenances thereto including interest during construction and all necessary engineering, legal, architectural, traffic surveying and other necessary expenses. Such bonds shall be the negotiable bonds of the commission, the income of which shall be tax free. The principal and interest of the bonds, and any premiums to be paid for their retirement before maturity, shall be paid solely from the revenues derived from the bridge and ferries;
6. To establish and charge tolls for transit over such bridge and ferries in accordance with the provisions of this compact;
7. To perform all other necessary and incidental functions.

Article II

The rates of tolls to be charged for transit over such bridge and ferries shall be so adjusted as to provide a fund sufficient to pay for the reasonable cost of maintenance, repairs and operation (including the approaches to the bridge) under economical management, and also to provide a sinking fund sufficient to pay the principal and interest of the outstanding bonds. All tolls and other revenues derived from facilities of the commission are hereby pledged to such uses.

Article III

The commission shall keep an accurate record of the cost of the bridge and other expenses and of the daily revenues collected and shall report annually to the governor of each state setting forth in detail the operations and transactions conducted by it pursuant to this agreement and any legislation thereunder.

Article IV

When the bonds have been retired, the part of the bridge within the State of Arkansas shall be conveyed to the State of Arkansas, and the part within the State of Mississippi to the State of Mississippi, and the high contracting parties to this compact do hereby agree that thereafter the bridge shall be free of tolls and shall be properly maintained, operated and repaired by the two states as may be agreed upon.

Article V

The commission shall consist of eighteen members, nine of whom shall be qualified electors of the State of Mississippi and nine of whom shall be qualified electors of the State of Arkansas. The Arkansas members are to be chosen by the State of Arkansas, and the Mississippi members are to be chosen by the State of Mississippi, in the manner and for the term fixed by the Legislature of each state, except as herein provided. The first commission, acting under this compact, shall be the present members of the Arkansas-Mississippi Bridge Commission heretofore appointed under the terms and provisions of Act of Congress approved May 17, 1939 (Public Act 80, 76th Congress), as amended by Act of Congress approved June 19, 1948 (Public Act 701, 80th Congress), said commission consisting of the following members: J. B. Lambert, Helena, Arkansas; R. L. Brooks, Helena, Arkansas; K. B. Lasswell, Helena, Arkansas; John C. Sheffield, Helena, Arkansas; C. N. Houck, Marianna, Arkansas; William Campbell, Forrest City, Arkansas; Clarence Thomas, Clarendon, Arkansas; Ballard Deane, St. Charles, Arkansas; DeWitt Poe, McGehee, Arkansas; W. K. Anderson, Clarksdale, Mississippi; E. Cage Brewer, Jr., Clarksdale, Mississippi; M. D. Brett, Clarksdale, Mississippi; R. N. Baltzer, Clarksdale, Mississippi; Sol Hirsburg, Friars Point, Mississippi; John Dunlap, Batesville, Mississippi; Noel M. Hodge, Oxford, Mississippi; Grady Cook, Pontotoc, Mississippi; James A. Finley, Tupelo, Mississippi.

Article VI

1. The Commission shall elect from its number a chairman and a vice-chairman and may appoint such officers and employees as it may require for the performance of its duties and shall fix and determine their qualifications and duties.

2. Until otherwise determined by the legislatures of the two states no action of the commission shall be binding unless taken at a meeting at which at least five members from each state are present and unless a majority of the members from each state present at such meeting shall vote in favor thereof. Each state reserves the right hereafter to provide by law for the exercise of the veto power by the governor thereof over any action of any commissioner appointed therefrom.

3. The two states shall provide penalties for violations of any order, rule or regulation of the commission, and for the manner of enforcing same.

Article VII

The commission is authorized and directed to proceed with the planning and construction of the bridge and the approaches thereto as rapidly as may be economically practicable and is hereby vested with all necessary and appropriate powers, not inconsistent with the constitution or the laws of the United States or of either state, to effect the same, except the power to assess or levy taxes.

Article VIII

In witness thereof, we have hereunto set our hands and seals under authority vested in us by law.

(Signed)

In the presence of:

(Signed)

SOURCES: Laws, 1950, ch. 393, § 1, eff from and after passage (approved March 31, 1950).

Cross References — Interstate bridge districts, see §§ 65-23-201 et seq.

Tolls on Mississippi River bridges generally, see § 65-25-21.

Comparable Laws from other States — Arkansas Code Annotated, §§ 27-89-201 et seq.

Federal Aspects — The General Bridge Act, referred to in this section, is codified as 33 U.S.C.S. §§ 525 et seq.

§ 65-25-103. Effect of signing compact.

The compact, when signed by the signatories of each state as herein provided, shall become binding upon the State of Mississippi and shall be filed in the office of the Secretary of State of Mississippi.

SOURCES: Laws, 1950, ch. 393, § 2, eff from and after passage (approved March 31, 1950).

§ 65-25-105. Vacancies on commission.

Vacancies occurring in the office of any appointed commissioner shall be filled by appointment by the Governor, by and with the advice and consent of the Senate, for the unexpired term.

SOURCES: Laws, 1950, ch. 393, § 3, eff from and after passage (approved March 31, 1950).

§ 65-25-107. Congressional approval of compact.

The commission shall have power to apply to the Congress of the United States for its consent and approval of the compact; but in the absence of such consent of Congress and until the same shall have been secured, the compact shall be binding upon the State of Mississippi in all respects permitted by law for the two States of Arkansas and Mississippi without the consent of Congress to cooperate, for the purposes enumerated in the compact and in the manner provided therein.

SOURCES: Laws, 1950, ch. 393, § 4, eff from and after passage (approved March 31, 1950).

ARTICLE 4.

ARKANSAS-MISSISSIPPI GREAT RIVER BRIDGE CONSTRUCTION.

SEC.
65-25-121. Compact with State of Arkansas.
65-25-123. Representation on The Authority.
65-25-125. Powers of members of The Authority and compact administrator.
65-25-127. Ratification of compact; exchange of documents.
65-25-129. Authority to use monies in State Highway Department Fund to match federal funds.

§ 65-25-121. Compact with State of Arkansas.

The Governor of the State of Mississippi, acting on behalf of this state, is hereby authorized to execute a compact, to be known as the "Arkansas-Mississippi Great River Bridge Construction Compact," in substantially the following form, with the State of Arkansas, and the Legislature hereby signifies in advance its approval and ratification of such compact, to wit:

ARKANSAS-MISSISSIPPI GREAT RIVER BRIDGE CONSTRUCTION COMPACT

ARTICLE I

The purpose of this compact is to promote the construction of a highway bridge or a combined highway-railroad bridge connecting the States of Mississippi and Arkansas at, near or between Rosedale, Mississippi, and McGehee and Dumas, Arkansas, and to establish a joint interstate authority to assist in these efforts.

ARTICLE II

This compact shall become effective immediately as to the States ratifying it whenever the States of Arkansas and Mississippi have ratified it and Congress has given consent thereto.

ARTICLE III

(a) The states which are parties to this compact (hereinafter referred to as "Party States") do hereby establish and create a joint agency which shall be known as the Arkansas-Mississippi Great River Bridge Authority (hereinafter referred to as "The Authority"). The membership of The Authority shall consist of five (5) members from the State of Mississippi, to be selected in such manner as may be provided by laws enacted by the Legislature of the State of Mississippi, and five (5) members from the State of Arkansas, to be selected in such manner as may be provided by laws enacted by the Arkansas General Assembly. The terms of the members of such Authority from each of the Party States, the method of appointing successor members, and the method of filling vacancies on The Authority, shall be determined by the laws of Mississippi and Arkansas.

(b) The members of The Authority shall not be compensated for services on The Authority, but each member shall be entitled to actual and reasonable expenses incurred in attending meetings or incurred otherwise in the performance of his/her duties as a member of The Authority.

(c) The members of The Authority shall meet upon the call of the chairman and hold such other meetings as its business may require. Special meetings of The Authority may be called by the chairman or upon written request of a majority of the members of The Authority from each of the Party States. The Authority shall choose annually a chairman and vice chairman from its members, and the chairmanship shall rotate each year among the Party States, in order of their acceptance of this compact.

(d) The Secretary of The Authority (hereinafter provided for) shall notify each member in writing of all meetings of The Authority in such a manner and under such rules and regulations as The Authority may prescribe.

(e) The Authority shall adopt rules and regulations for the transaction of its business; and the secretary shall keep a record of all its business and shall furnish a copy thereof to each member of The Authority.

(f) It shall be the duty of The Authority, in general, to promote, encourage, and coordinate the efforts of the Party States to secure the development of the Arkansas-Mississippi Great River Bridge at, near or between Rosedale, Mississippi, and McGehee-Dumas, Arkansas. Toward this end, The Authority shall have power to:

(i) Hold hearings;

(ii) Conduct studies and surveys of all problems, benefits, and other matters associated with the construction of the Arkansas-Mississippi Great River Bridge, and to make reports thereon;

(iii) Acquire by gift, grant or otherwise, from local, federal, or private sources, such money or property as may be provided for the proper performance of their function, and to hold and dispose of the same and to expend such monies as is necessary to defray the costs of establishing and operating The Authority;

(iv) Cooperate with other public or private groups, whether local, state, regional, or national, having an interest in the bridge construction;

(v) Formulate and execute plans and policies for emphasizing the purpose of this compact before the Congress of the United States and other appropriate officers and agencies of the United States;

(vi) Negotiate with one or more railroads in the State of Mississippi and the State of Arkansas, and with the appropriate federal authorities for the construction of the Arkansas-Mississippi Great River Bridge as a combined highway-railroad bridge. If necessary, The Authority may enter into a contract with one or more railroads and/or the appropriate agencies of Congress to borrow funds for the construction of the railroad portion of the bridge, to be reimbursed, including all costs of principal, interest and other costs in connection with such indebtedness, by revenues derived from rental fees, grants, or other charges, with such indebtedness to be secured solely by a pledge of such revenues; and

(vii) Exercise such other powers as may be appropriate to enable it to accomplish its functions and duties in connection with the construction of the Arkansas-Mississippi Great River Bridge as a highway bridge or a combined highway-railroad bridge, and to carry out the purposes of this compact.

ARTICLE IV

The Authority shall appoint a secretary, who shall be a person familiar with the nature, procedures, and significance of the bridge construction and the informational, educational, and publicity methods of stimulating general interest in such developments, and who shall be the compact administrator. The term of office of the secretary shall be at the pleasure of The Authority and such officer shall receive such compensation as The Authority shall prescribe from monies provided to The Authority under Article III(f)(iii). The secretary shall maintain custody of The Authority's books, records, and papers, which shall be kept by the secretary at the office of The Authority, and shall perform all functions and duties and exercise all powers and authorities which may be delegated to the secretary of The Authority.

ARTICLE V

Nothing in this compact shall be construed so as to conflict with any existing statute, or to limit the powers of any Party State, or to repeal or prevent legislation, or to authorize or permit curtailment or diminution of any other bridge project, or to affect any existing or future cooperative arrangement or relationship between any federal agency and a Party State.

ARTICLE VI

This compact shall continue in force and remain binding upon each Party State until the Legislature or Governor of each or either state takes action to withdraw therefrom; provided that such withdrawal shall not become effective until six (6) months after the date of the action taken by the Legislature or Governor. Notice of such action shall be given to the other Party State by the secretary of state of the Party State which takes such action.

SOURCES: Laws, 1985, ch. 357, § 1, eff from and after passage (approved March 19, 1985).

Editor's Note — Laws of 1985, ch. 357, § 6, effective from and after March 19, 1985, provides as follows:

"SECTION 6. The Authority shall have power to apply to the Congress of the United States for its consent and approval of the compact; but in the absence of such consent of Congress and until the same shall have been secured, the compact shall be binding upon the State of Mississippi in all respects permitted by law for the two (2) States of Arkansas and Mississippi without the consent of Congress to cooperate, for the purposes enumerated in the compact, and in the manner provided therein."

Comparable Laws from other States — Arkansas Code Annotated, §§ 27-89-301 et seq.

RESEARCH REFERENCES

Am Jur. 40 Am. Jur. 2d, Highways, Streets, and Bridges §§ 12 et seq.

CJS. 11 C.J.S., Bridges §§ 4 et seq.

§ 65-25-123. Representation on The Authority.

The five (5) members to represent the State of Mississippi on The Authority for the Arkansas-Mississippi Great River Bridge Construction Compact shall be the Governor of the State of Mississippi and one (1) representative of the Mississippi State Highway Department and three (3) other citizens of the State of Mississippi to be appointed by the Governor. The appointive members shall serve for terms of four (4) years each. Vacancies shall be filled by the Governor for the unexpired terms.

SOURCES: Laws, 1985, ch. 357, § 2, eff from and after passage (approved March 19, 1985).

Editor's Note — Laws of 1985, ch. 357, § 6, effective from and after March 19, 1985, provides as follows:

"SECTION 6. The Authority shall have power to apply to the Congress of the United States for its consent and approval of the compact; but in the absence of such consent of Congress and until the same shall have been secured, the compact shall be binding upon the State of Mississippi in all respects permitted by law for the two (2) States of Arkansas and Mississippi without the consent of Congress to cooperate, for the purposes enumerated in the compact, and in the manner provided therein."

§ 65-25-125. Powers of members of The Authority and compact administrator.

There is hereby granted to the members of The Authority for the State of Mississippi, and to the compact administrator, all the powers provided for in the Arkansas-Mississippi Great River Bridge Construction Compact Authority. All officers of the State of Mississippi are hereby authorized and directed to do all things falling within their respective jurisdictions, which are necessary or incidental to carrying out the purposes of the Arkansas-Mississippi Great River Bridge Construction Compact.

SOURCES: Laws, 1985, ch. 357, § 3, eff from and after passage (approved March 19, 1985).

Editor's Note — Laws of 1985, ch. 357, § 6, effective from and after March 19, 1985, provides as follows:

"SECTION 6. The Authority shall have power to apply to the Congress of the United States for its consent and approval of the compact; but in the absence of such consent of Congress and until the same shall have been secured, the compact shall be binding upon the State of Mississippi in all respects permitted by law for the two (2) States of Arkansas and Mississippi without the consent of Congress to cooperate, for the purposes enumerated in the compact, and in the manner provided therein."

RESEARCH REFERENCES

Am Jur. 40 Am. Jur. 2d, Highways, Streets, and Bridges §§ 12-20.

CJS. 11 C.J.S., Bridges §§ 4-23.

§ 65-25-127. Ratification of compact; exchange of documents.

When the Governor shall have executed said compact on behalf of this state and shall cause a verified copy thereof to be filed with the Secretary of State, and when said compact shall have been ratified by the State of Arkansas, then said compact shall become operative and effective as between the States of Arkansas and Mississippi. The Governor is hereby authorized and directed to take such action as may be necessary to complete the exchange of official documents between this state and the State of Arkansas with respect to ratifying said compact.

SOURCES: Laws, 1985, ch. 357, § 4, eff from and after passage (approved March 19, 1985).

Editor's Note — Laws of 1985, ch. 357, § 6, effective from and after March 19, 1985, provides as follows:

"SECTION 6. The Authority shall have power to apply to the Congress of the United States for its consent and approval of the compact; but in the absence of such consent of Congress and until the same shall have been secured, the compact shall be binding upon the State of Mississippi in all respects permitted by law for the two (2) States of Arkansas and Mississippi without the consent of Congress to cooperate, for the purposes enumerated in the compact, and in the manner provided therein."

§ 65-25-129. Authority to use monies in State Highway Department Fund to match federal funds.

The State Highway Commission is authorized to use any monies in the State Highway Department Fund that are not appropriated or otherwise encumbered for any other purpose, to match federal funds that are made available for preliminary engineering of the Arkansas-Mississippi Great River Bridge or for any other project in connection with preliminary engineering, including environmental impact studies.

SOURCES: Laws, 1985, ch. 357, § 5; Laws, 1992, ch. 314 § 1, eff from and after passage (approved April 20, 1992).

Editor's Note — Laws of 1985, ch. 357, § 6, effective from and after March 19, 1985, provides as follows:

"SECTION 6. The Authority shall have power to apply to the Congress of the United States for its consent and approval of the compact; but in the absence of such consent of Congress and until the same shall have been secured, the compact shall be binding upon the State of Mississippi in all respects permitted by law for the two (2) States of Arkansas and Mississippi without the consent of Congress to cooperate, for the purposes enumerated in the compact, and in the manner provided therein."

Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation, and whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

ARTICLE 5.

MISSISSIPPI-LOUISIANA BRIDGE CONSTRUCTION [REPEALED].

§ 65-25-201. Repealed.

Repealed by Laws, 1989, ch. 544, § 166, eff from and after July 1, 1989. [En Laws, 1976, ch. 311]

Editor's Note — Former § 65-25-201 provided for the Mississippi-Louisiana Bridge Construction Compact.

CHAPTER 26

Tennessee-Tombigbee Waterway Bridges

Sec.
65-26-1. Legislative declaration of purpose.
65-26-3. Definitions.
65-26-5. Construction of bridges or tunnels by State Highway Commission; cooperation with federal government.
65-26-7. Limitation on state expenditures; excess state expenditures.
65-26-9. Creation of Tennessee-Tombigbee Waterway Bridge Bond Retirement Fund; allocation of amounts on deposit.
65-26-11. Levy and disposition of bridge tolls.
65-26-13. Levy and disposition of state special improvement ad valorem tax in certain counties.
65-26-15. Issuance of negotiable general obligation bonds authorized; acceptance and use of other funds.
65-26-17. Levy of bridge tax in certain counties for purpose of funding payment of interest and principal upon bonds.
65-26-19. Duty of bond commission as to bonds; pledge of funds and revenues for payment of bonds.
65-26-21. Bonds as negotiable instruments; exemption from taxation.
65-26-23. Sale of bonds; interest.
65-26-25. Transfer and use of proceeds of bond sales.
65-26-27. Rights and remedies of bondholders.
65-26-29. Conditions on issuance of bonds; validation of bonds.
65-26-31. Bonds as legal investments and securities.
65-26-33. Force and effect of chapter.
65-26-35. Withdrawal of funds from bridge construction fund; report by highway commission.
65-26-37. Duties of attorney general as to bonds; expenditures for costs of issuing bonds.
65-26-39. Repealed.

§ 65-26-1. Legislative declaration of purpose.

It is hereby declared, as a matter of legislative determination, that the Tennessee-Tombigbee Waterway is one of Mississippi's basic resources, and that the utilization, development, conservation and regulation of such waterway is necessary to promote and enhance the balanced economic development of the state.

It is further determined and declared that the use, development, conservation and regulation of waters of the Tennessee-Tombigbee Waterway for domestic, municipal, commercial, industrial, agricultural and manufacturing purposes, for recreational uses, transportation, economic development, irrigation, navigation and pollution abatement are, as a matter of public policy, for the general welfare of the entire people of the state.

The provisions of this chapter are determined to be necessary and essential to the accomplishment of the aforesaid purposes, and that this chapter operates on a subject in which the state-at-large is interested.

SOURCES: Laws, 1976, ch. 492, § 1, eff from and after passage (approved May 25, 1976).

Cross References — Tombigbee Valley Authority, see §§ 51-13-1 et seq.
Tombigbee River Valley Water Management District, see §§ 51-13-101 et seq.
Tombigbee-Tennes see Waterway Development Compact, see §§ 51-27-1 et seq.

§ 65-26-3. Definitions.

For purposes of this chapter, the following words and terms shall have the meanings ascribed herein unless the context shall otherwise require:

(a) "General obligation bonds" shall mean bonds of the State of Mississippi, to the repayment of which, both as to principal and interest, the full faith, credit and taxing power of the State of Mississippi are irrevocably pledged until the principal and interest are paid in full.

(b) "Highway Commission" shall mean the State Highway Commission.

(c) "Bond commission" shall mean the state bond commission.

(d) "Corps of Engineers" shall mean the United States Army Corps of Engineers.

(e) "Bridge construction fund" shall mean the Tennessee-Tombigbee Waterway bridge construction fund as created by Section 65-26-25.

(f) "Bond retirement fund" shall mean the Tennessee-Tombigbee Waterway bridge bond retirement fund created by Section 65-26-9.

SOURCES: Laws, 1976, ch. 492, § 2, eff from and after passage (approved May 25, 1976).

Cross References — Reference to "State Highway Commission" shall mean the State Transportation Commission, see § 65-1-1.

§ 65-26-5. Construction of bridges or tunnels by State Highway Commission; cooperation with federal government.

(1) The Highway Commission, subject to the Corps of Engineers' approval of the plans, is hereby granted full and complete authority to perform any act necessary and proper to plan, construct and maintain any or all of the bridges or tunnels, authorized by subsection (2) of this section as funds are available, which shall span the Tennessee-Tombigbee Waterway from the funds derived from this chapter and any other funds available for such construction except that no state funds other than those explicitly provided by this chapter shall be used.

(2)(a) The Highway Commission may construct bridges or tunnels, whichever is more feasible as determined by the commission, only on United States Highways 45, 72, 78, 82 and 278 and Mississippi Highways 4, 6, 25, 30 and 50, as funds are available as authorized by this chapter.

(b) Any bridge or tunnel constructed on United States Highways 45, 72, 78 and 82 shall have four (4) lanes. Any bridge or tunnel constructed on United States Highway 278 and Mississippi Highways 4, 6, 25, 30 and 50 shall have two (2) lanes. The bridges or tunnels shall be constructed by order of priority as determined by the Highway Commission based on the criteria of keeping the construction of the Tennessee-Tombigbee Waterway on schedule.

(c) The Highway Commission is hereby authorized and directed, in the discharge of its duties under this chapter, to cooperate with the Corps of Engineers, and Department of Transportation and any other federal agency to receive any available federal funds or to secure the assumption by the federal government of all or any part of the costs of planning or constructing the bridges or tunnels and shall enter into an agreement that any bridges or tunnels on highways constructed or reconstructed, in whole or in part, with federal funds allocated for the purposes of this chapter shall be owned and operated by the State of Mississippi, and that the state will operate and maintain such bridges or tunnels or highways.

SOURCES: Laws, 1976, ch. 492, § 3; Laws, 1977, ch. 348, eff from and after passage (approved March 14, 1977).

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

Cross References — Powers and duties of the transportation commission, generally, see § 65-1-8.

Use of funds transferred from the bond retirement fund to the bridge construction fund, see § 65-26-25.

§ 65-26-7. Limitation on state expenditures; excess state expenditures.

(1) The intent of the legislature is for the state to invest not more than the amount necessary to pay the principal of and the interest on twenty-five percent (25%) of the bonds issued under the authority of subsection (1) of Section 65-26-15, not to exceed the principal amount of ten million dollars ($10,000,000.00), being twenty-five percent (25%) of the forty million dollars ($40,000,000.00) authorized to be issued. In the event the state is required to pay in excess of this amount, the state auditor of public accounts shall maintain a record of such excess expenditures, and the revenue pledged shall continue to be deposited in the bond retirement fund until the principal of and interest on all bonds issued under the authority of subsection (1) of Section 65-26-15 shall have been paid and the state has been reimbursed for its excess expenditures. The local participation shall be seventy-five percent (75%) of the total obligation incurred by the state, and such amount shall be paid into the bond retirement fund as set forth in this chapter.

(2) The intent of the legislature is for the counties of Alcorn, Chickasaw, Clay, Itawamba, Lee, Lowndes, Monroe, Noxubee, Kemper, Pontotoc, Prentiss and Tishomingo to pay the principal of and the interest on one hundred percent (100%) of the additional bonds in the amount of thirty million dollars ($30,000,000.00) issued under the authority of subsection (2) of Section 65-26-15.

(3) If at any time the bond retirement fund has a balance in excess of the amount needed to pay the principal of and interest on the bonds maturing in the ensuing two (2) fiscal years, such excess, to the extent necessary, shall be paid into the General Fund of the State of Mississippi until such time as the state has been reimbursed for expenditures in excess of twenty-five percent (25%) of the total costs of the principal and interest on bonds issued under the authority of subsection (1) of Section 65-26-15 and for all expenditures for costs of the principal and interest on bonds issued under the authority of subsection (2) of Section 65-26-15, and the balance of such excess shall be deposited into the bridge construction fund for cash expenditure on the construction of bridges.

SOURCES: Laws, 1976, ch. 492, § 4; Laws, 1980, ch. 442, § 1, eff from and after passage (approved May 2, 1980).

Editor's Note — Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor," and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer.

Section 27-104-6 provides that whenever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration".

§ 65-26-9. Creation of Tennessee-Tombigbee Waterway Bridge Bond Retirement Fund; allocation of amounts on deposit.

(1) There is hereby created in the State Treasury a special fund to be known as the Tennessee-Tombigbee Waterway Bridge Bond Retirement Fund. All revenues pledged for the payment of the principal of and interest on the bonds authorized to be issued by this chapter shall be deposited into the bond retirement fund. Expenditures from the bond retirement fund shall be made only in accordance with this section.

(2) Subject to the provisions of subsection (3) of this section, amounts on deposit in the bond retirement fund and not immediately required for the making of any payments therefrom shall be invested in interest-bearing certificates of deposit in accordance with the provisions of Section 27-105-33, except interest so earned shall be credited to the bond retirement fund.

(3)(a) There is hereby established within the bond retirement fund two (2) separate accounts as follows: (i) the "Tennessee-Tombigbee General Account"; and (ii) the "Tennessee-Tombigbee Principal and Interest Account."

(b)(i) All amounts held in the bond retirement fund on April 23, 1986, and all amounts thereafter deposited in the bond retirement fund, shall be credited to the Tennessee-Tombigbee General Account.

(ii) Until such time as the transfer of funds from the Tennessee-Tombigbee General Account to the Tennessee-Tombigbee Principal and Interest Account occurs as provided in paragraph (b)(iii) of this subsection, amounts in the general account shall be applied to the following purposes and in the following order of priority: first, to the extent required, to the payment, the principal of, redemption premium, if any, and interest on general obligation bonds; second, to the extent required, to the General Fund of the state to reimburse the state for expenditures in excess of twenty-five percent (25%) of the total costs of the principal and interest on bonds issued under authority of subsection (1) of Section 65-26-15 and for all expenditures for costs of the principal of and interest on bonds issued under authority of subsection (2) of Section 65-26-15; and third, to the extent required, if any, to the bridge construction fund created in Section 65-26-25 to make current payments to meet contractual obligations for bridge construction.

(iii) Upon certification of the State Treasurer, filed with and approved by the State Bond Commission, that the amount on deposit in the Tennessee-Tombigbee General Account, together with earnings on investments to accrue to it, is equal to or greater than the aggregate of the entire principal, redemption premium, if any, and interest due and to become due, until the final maturity date or earlier scheduled redemption date thereof, on all general obligation bonds outstanding as of the date of such certification, then the State Treasurer shall transfer from the Tennessee-Tombigbee General Account to the Tennessee-Tombigbee Principal and Interest Account an amount equal to the entire principal, redemption premium, if any, and interest due and to become due, until the final maturity date or scheduled redemption date thereof, on all general obligation bonds outstanding as of the date of such transfer. The State of Mississippi hereby covenants with the holders from time to time of general obligation bonds that amounts deposited in the Tennessee-Tombigbee Principal and Interest Account will be applied solely to the payment of the principal of, redemption premium, if any, and interest on general obligation bonds.

(iv) After the date of the transfer from the general account to the principal and interest account contemplated by paragraph (b)(iii) of this subsection, amounts from time to time on deposit in the Tennessee-Tombigbee General Account shall be applied monthly to the following purposes and in the following order of priority: first, to the extent required, to the payment of the principal of, redemption premium, if any, and interest on general obligation bonds issued under this chapter; second, to the extent required, to the General Fund of the state to reimburse the state for expenditures in excess of twenty-five percent (25%) of the total costs of the principal and interest on bonds issued under authority of subsection (1) of Section 65-26-15 and for all expenditures for costs of the principal of and interest on bonds issued under authority of subsection (2) of Section 65-26-15; and third, to the extent required, if any, to the bridge construction fund created in Section 65-26-25 to make current payments to meet contractual obligations for bridge construction.

(4) It is the intent of the Legislature that all outstanding general obligation bonds issued under this chapter shall be retired by the State Bond Commission on the earliest scheduled redemption date thereof, provided that

there are sufficient funds in the bond retirement fund together with earnings on investments to accrue to it. When the principal of, redemption premium, if any, and interest on all such outstanding general obligation bonds are paid in full, then any amounts remaining in the bond retirement fund, or separate accounts therein, together with earnings on investments to accrue to it, shall be apportioned and paid as follows:

(a) Three Million Five Hundred Thousand Dollars ($3,500,000.00) of such funds shall be paid into the appropriate fund for use by the Yellow Creek State Inland Port Authority for equipment or facilities necessary to the operation of the port.

(b) Three Million Five Hundred Thousand Dollars ($3,500,000.00) shall be paid into the State General Fund.

(c) Seven Million Five Hundred Thousand Dollars ($7,500,000.00) shall be paid to Tishomingo County. Of the Seven Million Five Hundred Thousand Dollars ($7,500,000.00), (i) Two Million Five Hundred Thousand Dollars ($2,500,000.00) shall be placed by the county in a special trust fund, the principal of which shall remain inviolate and the interest on which shall be expended solely for improvement of elementary and secondary education in Tishomingo County and distributed among the school districts therein based on the average daily attendance in each, and (ii) Five Million Dollars ($5,000,000.00) shall be placed in the county general fund and may be expended for general county purposes.

(d) The balance of such funds shall be paid to the Counties of Alcorn, Chickasaw, Clay, Itawamba, Lee, Lowndes, Monroe, Noxubee, Kemper, Pontotoc, Prentiss and Tishomingo. Such funds shall be paid to such counties in the proportion that each county's contribution to the bridge bond fund bears to the total contribution from all twelve (12) counties; however, no county shall be paid more than Five Million Dollars ($5,000,000.00) under this paragraph (d). Such funds shall be deposited by the county into a special account to be expended solely for economic development purposes. No expenditure of funds from the special account shall be made unless the amount to be expended from the special account is matched by other county funds in an amount equal to fifteen percent (15%) of the special account funds to be expended and until the Mississippi Board of Economic Development, upon application by the board of supervisors, has certified that the proposed expenditure is for economic development purposes and has approved the expenditure for such purposes; provided, however, the fifteen percent (15%) match hereinabove imposed shall not be required when the proposed expenditure for economic development purposes is on land owned or leased by the federal, state, county or municipal government.

SOURCES: Laws, 1976, ch. 492, § 5; Laws, 1980, ch. 442, § 2; Laws, 1986, ch. 506, § 4, eff from and after passage (approved April 23, 1986).

Editor's Note — Section 57-1-54 provides that the Mississippi Development Authority shall be the Department of Economic and Community Development, and that whenever the term "Mississippi Department of Economic and Community Development," "Mississippi Department of Economic Development," or any variation thereof, appears in any law the same shall mean the Mississippi Development Authority.

Cross References — Provisions relative to deposit of funds from the Tennes see Valley Authority into the Tennessee-Tombigbee Waterway Bridge Bond Retirement Fund, see § 27-37-301.

ATTORNEY GENERAL OPINIONS

There is no legal impediment to the county board of supervisors depositing monies into the Industrial Development Fund" over and above what is transferred from the state provided such additional local contribution comes from monies that are lawfully available for such purpose. Phillips, Nov. 20, 1991, A.G. Op. #91-0821.

Tennessee-Tombigbee Waterway Bridge Bond Retirement Fund is controlled by Miss. Code Section 65-26-9. Creekmore, Feb. 12, 1993, A.G. Op. #92-1011.

Payments in lieu of taxes which are received pursuant to Miss. Code Section 65-26-9(4)(d) are to be deposited into special account and are subject to all statutory restrictions on expenditures of municipal funds, in addition to requirement that these funds must be used for industrial development requiring approval from Department of Economic Development. Creekmore, Feb. 12, 1993, A.G. Op. #92-1011.

§ 65-26-11. Levy and disposition of bridge tolls.

The Highway Commission may levy tolls on any bridge provided for in Section 65-26-5 where the highway commission determines such tolls to be feasible. Tolls shall be levied only at such time as is provided for in subsection (3)(b)(iii) of Section 65-26-19. The revenue derived from any tolls shall be deposited directly into the bond retirement fund, and shall be used only to defray the costs incident to the collection of such tolls, the construction, maintenance and equipment of toll stations and to retire bonds issued pursuant to the provisions of this chapter, or to reimburse the State of Mississippi for any advances or expenditures in excess of twenty-five percent (25%) of the principal of and interest on bonds issued under the authority of subsection (1) of Section 65-26-15 or to reimburse the State of Mississippi for any expenditures on the principal of and interest on bonds issued under the authority of subsection (2) of Section 65-26-15. Any tolls shall be collected until terminated as provided by subsection (3) of Section 65-26-19.

SOURCES: Laws, 1976, ch. 492, § 6; Laws, 1980, ch. 442, § 3, eff from and after passage (approved May 2, 1980).

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 65-26-13. Levy and disposition of state special improvement ad valorem tax in certain counties.

(1) A state special improvement ad valorem tax of one (1) mill on the dollar for the year 1976 and for each year thereafter until eliminated as

provided in subsection (4) of this section is hereby levied by the State of Mississippi on all taxable property in the counties of Tishomingo, Prentiss, Itawamba, Monroe, Clay and Lowndes of the State of Mississippi.

(2) The tax levied by subsection (1) of this section shall be a supplemental special improvement tax levy and shall be in addition to any other state, county, municipal or other ad valorem tax being levied in any such county. The tax shall not be reimbursable under any provisions of the Homestead Exemption Law of this state.

(3) The proceeds of the tax levied by subsection (1) of this section shall be paid to the State Tax Commission which shall deposit the proceeds into the bridge bond retirement fund. The proceeds of the tax shall be used only to retire any bonds issued pursuant to the provisions of this chapter, or to reimburse the State of Mississippi for any advances or expenditures in excess of the state share.

(4) The state special improvement ad valorem tax levied pursuant to this section shall cease to be levied or collected for any fiscal year after the 1986 fiscal year.

SOURCES: Laws, 1976, ch. 492, § 7; Laws, 1980, ch. 442, § 4; Laws, 1986, ch. 506, § 5, eff from and after passage (approved April 23, 1986).

Editor's Note — Section 27-3-4 provides that the terms " 'Mississippi State Tax Commission,' 'State Tax Commission,' 'Tax Commission' and 'commission' appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue."

Cross References — Homestead exemption law, see §§ 27-33-1 et seq.

§ 65-26-15. Issuance of negotiable general obligation bonds authorized; acceptance and use of other funds.

(1) The Highway Commission is hereby authorized, at one (1) time or from time to time, to declare by resolution the necessity for issuance of negotiable general obligation bonds of the State of Mississippi to provide funds for the purpose of paying all or any part of the cost of the planning or construction of the bridges or tunnels, authorized by this chapter to receive state funds, over the Tennessee-Tombigbee Waterway, but in no event shall the amount of bonds issued exceed a total of Forty Million Dollars ($40,000,000.00) for such planning or construction of such bridges or tunnels. The counties of Alcorn, Chickasaw, Clay, Itawamba, Lee, Lowndes, Monroe, Noxubee, Kemper, Pontotoc, Prentiss and Tishomingo are hereby obligated to reimburse the State of Mississippi for seventy-five percent (75%) of the total cost of the bonds, not to exceed Thirty Million Dollars ($30,000,000.00), and to pay the debt service thereon.

(2) In the manner and for the purposes described in subsection (1) of this section, the Highway Commission is hereby authorized at one (1) time or from time to time, to declare by resolution the necessity for issuance of additional negotiable general obligation bonds of the State of Mississippi in an amount

not to exceed Thirty Million Dollars ($30,000,000.00). The counties of Alcorn, Chickasaw, Clay, Itawamba, Lee, Lowndes, Monroe, Noxubee, Kemper, Pontotoc, Prentiss and Tishomingo are hereby obligated to reimburse the State of Mississippi for one hundred percent (100%) of the total cost of the bonds issued under the authority of this subsection and to pay the debt service thereon.

(3) Notwithstanding the foregoing provisions of this section, no general obligation bonds authorized herein shall be issued after April 23, 1986.

(4) The Highway Commission is authorized to accept and to use funds from whatever source available, other than state funds which are not explicitly pledged under this chapter, in completing the construction authorized by this chapter and shall furnish to the State Bond Commission the amounts of federal funds to be expended on each bridge or tunnel, which is to be partially funded under the provisions of this chapter. The Highway Commission shall not request bonds to be issued in an amount which when added to other funds available will exceed the actual cost of construction nor where construction of any such bridge or tunnel may be accomplished by the Corps of Engineers or any other federal agency.

SOURCES: Laws, 1976, ch. 492, § 8; Laws, 1980, ch. 442, § 5; Laws, 1986, ch. 506, § 6, eff from and after passage (approved April 23, 1986).

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

Cross References — Provisions relative to deposit of funds from the Tennessee Valley Authority into the Tennessee-Tombigbee Waterway Bridge Bond Retirement Fund, see § 27-37-301.

Application of amounts on deposit in the Tennessee-Tombigbee Waterway Bridge Bond Retirement Fund to costs associated with principal and interest on bonds issued under this section, see § 65-26-9.

Use of bridge tolls to reimburse state for bonds issued under authority of this section, see § 65-26-11.

Expenditure of funds to pay attorney's fees, printing costs and other expenses in connection with issuance of bonds, see § 65-26-37.

§ 65-26-17. Levy of bridge tax in certain counties for purpose of funding payment of interest and principal upon bonds.

For the purpose of providing funds for the payment of interest and principal upon bonds authorized by this chapter, there shall be levied, assessed and shall be collected, when required by this chapter, from every person in the Counties of Alcorn, Chickasaw, Clay, Itawamba, Kemper, Lee, Lowndes, Monroe, Noxubee, Pontotoc, Prentiss and Tishomingo engaging in or doing business, a tax which may be cited as a "bridge tax" which shall be in addition to all other taxes now imposed, as hereinafter provided:

(a) Such tax shall be a sum equal to one-half percent (½%) of the retail sales made in such counties.

(b) Persons liable for the tax imposed herein shall add the amount of the tax to the sales price or gross income, and in addition thereto shall collect, insofar as practicable, the amount of the tax due by him from the person receiving the service or goods at the time of payment therefor.

(c) Such tax shall be paid to the State Tax Commission or its successor, on a form to be prescribed by the State Tax Commission, in the same manner that state sales taxes are computed, collected and paid; and the full enforcement provisions and all other provisions of Chapter 119, Laws of 1934, as amended, shall apply as necessary to the implementation and administration of this chapter.

(d) The proceeds of such tax shall be paid into the bond retirement fund.

SOURCES: Laws, 1976, ch. 492, § 9, eff from and after passage (approved May 25, 1976).

Editor's Note — Section 27-3-4 provides that the terms " 'Mississippi State Tax Commission,' 'State Tax Commission,' "Tax Commission' and 'commission' appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue."

§ 65-26-19. Duty of bond commission as to bonds; pledge of funds and revenues for payment of bonds.

(1) Upon the adoption of a resolution by the Highway Commission, declaring the necessity for the issuance of any part or all of the general obligation bonds authorized by this chapter, the Highway Commission shall deliver a certified copy of its resolution or resolutions to the Bond Commission. Upon receipt of same, the Bond Commission shall, in its discretion, act as the issuing agent, prescribe the form of the bonds, advertise for and accept bids, issue and sell the bonds so authorized to be sold, and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds.

(2) For the payment of said bonds and the interest thereon, the full faith, credit, and taxing power of the State of Mississippi are hereby irrevocably pledged. If the legislature shall find that there are funds available in the General Fund of the Treasury of the State of Mississippi in amounts sufficient to pay maturing principal and accruing interest of said general obligation bonds, and if the legislature shall appropriate such available funds to the bond retirement fund for the purpose of paying such maturing principal and accruing interest, then the maturing principal and accruing interest of said bonds shall be paid from appropriations made from the General Fund of the Treasury of the State of Mississippi by the legislature thereof. But, if there are not available sufficient funds in the bond retirement fund and General Fund of the Treasury of the State of Mississippi to pay the maturing principal and accruing interest of said bonds, or if such funds are available and the legislature should fail to appropriate a sufficient amount thereof to pay such principal and accruing interest as the same becomes due, then, and in that

event, there shall annually be levied upon all taxable property within the State of Mississippi an ad valorem tax at the rate sufficient to provide the funds required to pay the said bonds at maturity and the interest thereon as the same accrues.

(3)(a) From and after that year in which the state shall become obligated to make the final expenditure of the ten million dollars ($10,000,000.00) required by Section 65-26-7, there is hereby pledged the net revenue derived from the funds received by the State of Mississippi from the Tennessee Valley Authority in lieu of ad valorem taxes, being twelve and two-tenths percent (12.2%) of the total funds paid by the Authority in Mississippi, as provided in Section 27-37-301, Mississippi Code of 1972, said funds to be deposited directly into the bond retirement fund. Such funds paid by the Authority in lieu of ad valorem taxes are hereby pledged for the payment of principal of and interest on bonds authorized by subsection (1) of Section 65-26-15. When twenty-five percent (25%) of the total costs of the bonds and the debt service thereon has been paid by the use of funds of the State of Mississippi, the diversion of such funds from the Authority from the general fund of the State of Mississippi into the bond retirement fund shall cease.

(b) For repayment to the State of Mississippi to the extent of the local share of all bonds issued under the authority of this chapter and the interest thereon, there are hereby pledged the following revenues:

(i) From and after January 1, 1976, any sum in excess of the sum received in 1975 by the counties of Alcorn, Chickasaw, Clay, Itawamba, Kemper, Lee, Lowndes, Monroe, Noxubee, Pontotoc, Prentiss and Tishomingo from funds paid by the Tennessee Valley Authority to said counties under the provisions of Section 27-37-301, Mississippi Code of 1972, which shall be deposited directly into the bond retirement fund;

(ii) The revenue derived from the one (1) mill special improvement ad valorem tax levied by Section 65-26-13;

(iii) The revenue derived from the levy of tolls as required by Section 65-26-11; provided, however, that no toll shall be levied or collected until such time as the revenue from the following sources is insufficient to pay the annual cost of the principal of the bonds and the interest thereon; the funds paid the state as set forth in subparagraph (a) until terminated as provided therein, the funds paid the counties as set forth in subparagraph (b)(i), the one (1) mill tax as set forth in subparagraph (b)(ii), and a sum equal to the portion of the balance of the bond retirement fund representing the state's participation therein;

(iv) The revenue derived from the levy of the bridge tax as provided in Section 65-26-17; provided, however, that no such tax shall be levied or collected until revenue from the following sources shall be insufficient to pay the annual costs of the principal of the bonds and the interest thereon: the funds paid the state as set forth in subparagraph (a) until terminated as provided therein, the funds paid the counties as set forth in subparagraph (b)(i), the one (1) mill tax set forth in subparagraph (b)(ii), the tolls as set forth in subparagraph (b)(iii) and a sum equal to the portion of the balance of the bond retirement fund representing the state's participation therein.

(c)(i) If the revenue provided for in subparagraphs (b)(i), (b)(ii) and (b)(iii) is sufficient for a period of two (2) consecutive years, to meet the cost of the principal of the bonds and the interest maturing thereon, the levy of the bridge tax as set forth in subparagraph (b)(iv) of this section shall cease;

(ii) If the revenue provided for in subparagraphs (b)(i) and (b)(ii) is sufficient, for a period of two (2) consecutive years, to meet the cost of the principal of the bonds and the interest maturing thereon, the tolls as set forth in subparagraph (b)(iii) of this section shall cease to be collected.

(d)(i) If, at any time after the bridge tax shall cease to be collected to be used to pay the cost of the principal of the bonds and interest thereon, the revenue provided for in subparagraphs (b)(i), (b)(ii) and (b)(iii) shall be insufficient to pay the annual costs of the principal and interest on the bonds, the state tax commission shall again levy the bridge tax.

(ii) If, at any time after the tolls shall cease to be collected for payment of the bonds and interest thereon, the revenue provided for in subparagraphs (b)(i) and (b)(ii) shall be insufficient to pay the annual costs of the principal and interest on the bonds, the State Highway Commission shall again collect the tolls.

(4) Such bonds shall bear date or dates, be in such denomination or denominations, bear interest at such rate or rates, be payable at such place or places within or without the State of Mississippi, shall mature absolutely at such time or times, be redeemable prior to maturity at such time or times and upon such terms, with or without premium, shall bear such registration privileges, and shall be substantially in such form, all as shall be determined by resolution of the bond commission. Provided, however, that such bonds shall mature in annual installments beginning not more than two (2) years from date thereof and extending not more than twenty (20) years from date thereof.

(5) Such bonds shall be signed by the chairman of the Bond Commission, or by his facsimile signature, and the official seal of the bond commission shall be affixed thereto, attested by the secretary of the bond commission. The interest coupons to be attached to such bonds may be executed by the facsimile signatures of said officers. Whenever any such bonds shall have been signed by the officials herein designated to sign the bonds, who were in office at the time of such signing but who may have ceased to be such officers prior to the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the signatures of such officers upon such bonds and coupons shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until the delivery of the same to the purchaser, or had been in office on the date such bonds may bear.

SOURCES: Laws, 1976, ch. 492, § 10; Laws, 1980, ch. 442, § 6, eff from and after passage (approved May 2, 1980).

Editor's Note — Section 27-3-4 provides that the terms " 'Mississippi State Tax Commission,' 'State Tax Commission,' "Tax Commission' and 'commission' appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue."

Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

Cross References — Provisions relative to deposit of funds from the Tennessee Valley Authority into the Tennessee-Tombigbee Waterway Bridge Bond Retirement Fund, see § 27-37-301.

State Bond Commission, see §§ 31-17-1, 31-17-3.

§ 65-26-21. Bonds as negotiable instruments; exemption from taxation.

All general obligation bonds of the State of Mississippi and interest coupons issued under the provisions of this chapter shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of Mississippi. Such bonds and the income therefrom shall be exempt from all taxation within the State of Mississippi.

SOURCES: Laws, 1976, ch. 492, § 11, eff from and after passage (approved May 25, 1976).

Cross References — Negotiable instruments under the Mississippi Uniform Commercial Code, see §§ 75-3-101 et seq.

§ 65-26-23. Sale of bonds; interest.

(1) The Bond Commission shall sell such bonds on sealed bids at public sale, and for such price as it may determine to be for the best interest of the State of Mississippi, but no such sale shall be made at a price less than par plus accrued interest to date of delivery of the bonds to the purchaser. The bonds authorized by this chapter shall not bear a greater overall maximum interest rate to maturity than eight percent (8%) per annum. No bond shall bear more than one (1) rate of interest; each bond shall bear interest from its date to its stated maturity date at the interest rate specified in the bid; all bonds of the same maturity shall bear the same rate of interest from date to maturity; all interest accruing on such bonds so issued shall be payable semiannually or annually, except that the first interest coupon attached to any such bond may be for any period not exceeding one (1) year.

(2) No interest payment shall be evidenced by more than one (1) coupon and neither cancelled nor supplemental coupons shall be permitted; the lowest interest rate specified for any bonds issued shall not be less than seventy percent (70%) of the highest interest rate specified for the same bond issue. The interest rate of any one (1) maturity shall not exceed eight percent (8%).

(3) Each interest rate specified in any bid must be in a multiple of one-eighth of one percent (⅛ of 1%) or one-tenth of one percent (1⁄10 of 1%) and a zero rate of interest cannot be named.

(4) Notice of the sale of any such bonds shall be published at least two (2) times, the first of which shall be made not less than ten (10) days prior to the date of sale, and shall be so published in one or more newspapers having a general circulation in the City of Jackson and in one or more other newspapers or financial journals with a large national circulation, to be selected by the Bond Commission.

(5) The Bond Commission, when issuing any bonds under the authority of this chapter, shall provide that bonds maturing eleven (11) or more years after the date of the issuance of such bonds may, at the option of the State of Mississippi, be called in for payment and redemption in reverse numerical order at the call price named therein and accrued interest, or on the tenth anniversary of the date of issue, or on any interest payment date thereafter prior to maturity.

SOURCES: Laws, 1976, ch. 492, § 12; Laws, 1980, ch. 442, § 7, eff from and after passage (approved May 2, 1980).

Editor's Note — Section 27-3-4 provides that the terms " 'Mississippi State Tax Commission,' 'State Tax Commission,' "Tax Commission' and 'commission' appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue."

§ 65-26-25. Transfer and use of proceeds of bond sales.

(1) Upon the issuance and sale of such bonds, the Bond Commission shall transfer the principal proceeds of any such sale or sales to the bridge construction fund hereby created in the state treasury. The proceeds of such bonds shall be used solely for the payment of the cost of the project or combined projects, which shall include costs incident to the issuance and sale of such bonds, and shall be disbursed solely upon the order of the Highway Commission under such restrictions, if any, as may be contained in the resolution providing for the issuance of the bonds.

(2) Any revenues transferred to the bridge construction fund from the bond retirement fund as provided in this chapter shall be expended for the construction of any bridges described in Section 65-26-5 upon the order of the Highway Commission. Such revenues shall not be commingled with any other funds in the bridge construction fund but shall be kept separate and distinct therefrom.

(3) Any funds in the bridge construction fund which are not needed to make current payments to meet contractual obligations shall be invested in interest-bearing certificates of deposit in accordance with the provisions of Section 27-105-33, except interest so earned shall be credited to the bridge construction fund.

(4) When all contracts for bridge construction are paid in full then all funds in the bridge construction fund and all funds invested as provided in subsection (3) of this section shall be transferred to the bond retirement fund and no further diversion or transfer of said funds shall be made to the bridge construction fund.

SOURCES: Laws, 1976, ch. 492, § 13; Laws, 1980, ch. 442, § 8, eff from and after passage (approved May 2, 1980).

Cross References — Application of amounts on deposit in the Tennessee-Tombigbee Waterway Bridge Bond Retirement Fund to the bridge construction fund created in this section, see § 65-26-9.

§ 65-26-27. Rights and remedies of bondholders.

Any holder of bonds issued under the provisions of this chapter or of any of the interest coupons pertaining thereto may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights granted hereunder, or under such resolution, and may enforce and compel performance of all duties required by this chapter to be performed, in order to provide for the payment of bonds and interest thereon.

SOURCES: Laws, 1976, ch. 492, § 14, eff from and after passage (approved May 25, 1976).

§ 65-26-29. Conditions on issuance of bonds; validation of bonds.

(1) Such general obligation bonds may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions and things which are specified or required by this chapter. Any resolution providing for the issuance of general obligation bonds under the provisions of this chapter shall become effective immediately upon its adoption by the bond commission, and any such resolution may be adopted at any regular, special or adjourned meeting of the bond commission by a majority of its members.

(2) The bonds authorized under the authority of this chapter shall be validated in the chancery court of Hinds County, Mississippi, in the manner and with the force and effect provided now or hereafter by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district, and other bonds. The necessary papers for such validation proceedings shall be transmitted to the state bond attorney by the secretary of the bond commission, and the required notice shall be published in a newspaper published in the City of Jackson, Mississippi.

SOURCES: Laws, 1976, ch. 492, § 15, eff from and after passage (approved May 25, 1976).

§ 65-26-31. Bonds as legal investments and securities.

All bonds issued under the provisions of this chapter shall be legal investments for trustees and other fiduciaries and for savings banks, trust companies, and insurance companies organized under the laws of the State of Mississippi, and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and bodies of this state and all municipalities and political subdivisions for the purpose of securing the deposit of public funds.

SOURCES: Laws, 1976, ch. 492, § 16, eff from and after passage (approved May 25, 1976).

§ 65-26-33. Force and effect of chapter.

This chapter shall be deemed to be full and complete authority for the exercise of the powers herein granted, but this chapter shall not be deemed to repeal or to be in derogation of any existing law of this state whereunder projects of the character herein defined may be constructed or financed.

SOURCES: Laws, 1976, ch. 492, § 17, eff from and after passage (approved May 25, 1976).

§ 65-26-35. Withdrawal of funds from bridge construction fund; report by highway commission.

(1) The funds which are transferred from the sale of bonds under this chapter and such other funds as may be transferred to the bridge construction fund may be withdrawn only in the following manner: the funds shall be paid by the State Treasurer upon warrants issued by the State Auditor of Public Accounts, which warrants shall be issued upon requisition by the Highway Commission, signed by the director.

(2) All expenditures ordered by the Highway Commission shall be entered upon its minutes, and the Highway Commission shall submit a full report of its work and all the transactions carried on by it, and a complete statement of all its expenditures at the next regular session of the legislature.

SOURCES: Laws, 1976, ch. 492, § 18, eff from and after passage (approved May 25, 1976).

Editor's Note — Section 7-7-2 provides that the words "State Auditor of Public Accounts, " "State Auditor, " and "Auditor " appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer.

Section 27-104-6 provides that whenever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration".

§ 65-26-37. Duties of attorney general as to bonds; expenditures for costs of issuing bonds.

Except as otherwise authorized in Section 7-5-39, the Attorney General of the State of Mississippi shall represent the Transportation Commission in issuing, selling and validating bonds herein provided for, and said Transportation Commission is hereby authorized and empowered to expend any sum not to exceed Forty Thousand Dollars ($40,000.00) on approval by the State Bond Commission from the proceeds derived from the sale of bonds authorized in subsections (1) and (2) of Section 65-26-15, or from other funds available to the Transportation Commission, to pay the cost of approving attorney's fees, validating, printing and cost of delivery of bonds authorized under this chapter.

SOURCES: Laws, 1976, ch. 492, § 19; Laws, 1980, ch. 442, § 9; Laws, 1984, ch. 519; Laws, 2012, ch. 546, § 29, eff from and after July 1, 2012.

Amendment Notes — The 2012 amendment added the exception at the beginning; and substituted "Transportation Commission" for "Highway Commission" throughout the section.

§ 65-26-39. Repealed.

Repealed by Laws 1987, ch 403, eff from and after passage (approved March 20, 1987).

[En Laws, 1976, ch 492, § 21]

Editor's Note — This section created the Tennessee-Tombigbee Waterway bridge committee, established its membership and granted it certain powers and duties.

CHAPTER 27

Ferries; General Provisions

SEC.
65-27-1. Toll ferries and free ferries.
65-27-3. Right of owner of the soil.
65-27-5. Bond required of the keeper of a toll ferry.
65-27-7. Bond may be sued on.
65-27-9. Penalties, forfeitures, and damages recovered.
65-27-11. Purchase of competing ferry.
65-27-13. Equipment for safe transportation by ferry.
65-27-15. Duties of ferrymen.
65-27-17. Table of rates of tolls kept exposed to view.
65-27-19. Authority of ferryman over his boat.
65-27-21. Right of landing in another county.

§ 65-27-1. Toll ferries and free ferries.

The board of supervisors may establish and license toll ferries, and fix the toll; and where the public convenience and travel justifies it, may establish and maintain free ferries, or in its discretion toll ferries at public expense; and the board of supervisors shall fix the salary of the ferryman or ferrymen to run such free or toll ferry. The board of supervisors may make allowance to pay for ferry boats and things to run same, and may establish ferries over rivers or other watercourses where public road is parallel with and on one bank of the river or watercourse, and public or private roads on the opposite bank.

SOURCES: Codes, Hutchinson's 1848, ch. 10, art. 7 (36); 1857, ch. 15, art. 41; 1871, § 2379; 1880, § 873; 1892, § 3942; 1906, § 4455; Hemingway's 1917, § 4571; 1930, § 4678; 1942, § 8470; Laws, 1904, ch. 163; Laws, 1924, ch. 231; Laws, 1960, ch. 210.

Cross References — Bridge and park commission's power in regard to ferries, see § 55-7-17.

Taking over operation of publicly owned ferries by Highway Commission, see § 65-1-33.

Toll bridges and ferries, see §§ 65-21-7, 65-21-9.

Criminal offenses associated with operation of a ferry, see §§ 97-15-1 et seq.

JUDICIAL DECISIONS

1. In general.
2. Rights of licensee.

1. In general.

The right to operate a public ferry within a short distance of the site of a bridge, which, until its recent destruction, had been a part of a public road, under a license authorizing its location at or near such bridge site, is not impaired by want of power in the board of supervisors to authorize its location elsewhere than exactly at the bridge site. McInnis v. Pace, 78 Miss. 550, 29 So. 835 (1901).

A ferry located in the vicinity of a public ferry, without authority, for the use of those operating it and such other persons as might see fit to avail of it, and from which tolls are received when voluntarily offered, is not a public ferry. McInnis v. Pace, 78 Miss. 550, 29 So. 835 (1901).

Where a highway crosses a river, the continuity of the highway is not broken, but it extends by the ferry or bridge across the river. Sullivan v. Lafayette County Bd. of Supvrs., 58 Miss. 790 (1881).

2. Rights of licensee.

The right of a licensee operating a public ferry under this section is exclusive against the operation of another public ferry without authority on the same stream and but a few hundred yards distant, and he may enjoin the operators of the other ferries or sue for damages. McInnis v. Pace, 78 Miss. 550, 29 So. 835 (1901).

The license to keep a ferry may be assigned. McCearly v. Swayze, 65 Miss. 351, 3 So. 657 (1888).

The holder of a license to keep a ferry enjoys the privilege subject to the right of the board to establish other ferries as near to it as the public convenience may require. Montjoy v. Pillow, 64 Miss. 705, 2 So. 108 (1887).

A license to keep a ferry is not strictly a franchise, but a privilege, subject to modification or revocation when the public interest requires; A ferry franchise cannot exist by prescription. Sullivan v. Lafayette County Bd. of Supvrs., 58 Miss. 790 (1881).

If a bridge be erected on the site of a ferry, the licensee cannot claim the bridge as a fixture because his land had not been lawfully condemned and paid for. Sullivan v. Lafayette County Bd. of Supvrs., 58 Miss. 790 (1881).

RESEARCH REFERENCES

ALR. Ferry operator's duty and liability as regards motor vehicles and occupants thereof. 69 A.L.R.2d 1008.

Am Jur. 35A Am. Jur. 2d, Ferries § 2.

CJS. 36A C.J.S., Ferries § 4.

§ 65-27-3. Right of owner of the soil.

The owner of the soil over which any toll ferry, bridge, turnpike, causeway, or plank road is established shall have the preference over all other persons to be licensed to keep the same, upon complying with the law and the orders of the board of supervisors within the time fixed by the board.

SOURCES: Codes, 1857, ch. 15, art. 41; 1871, § 2379; 1880, § 873; 1892, § 3945; 1906, § 4458; Hemingway's 1917, § 4574; 1930, § 4679; 1942, § 8471.

JUDICIAL DECISIONS

1. In general.

If the true owner recover the land of the licensee to keep a ferry, who had assigned the license, the assignee may still keep the ferry. McCearly v. Swayze, 65 Miss. 351, 3 So. 657 (1888).

§ 65-27-5. Bond required of the keeper of a toll ferry.

Every person licensed to keep a toll ferry shall give bond, with two or more sufficient sureties, to be approved by the president and clerk of the board of supervisors, payable to the county, and in a penalty of not less than five hundred nor more than two thousand dollars, to be fixed by the board, conditioned to constantly provide and keep good and sufficient boats and appliances for the speedy and safe transportation of persons and property over the stream, to provide safe landings for the ferryboat, and in all things to comply with the law and the reasonable orders of the board regulating the keeping of the ferry; but saving to the keeper a reasonable time within which to repair damage done by sudden freshet, storm, or other unforeseen accident.

SOURCES: Codes, 1892, § 3943; 1906, § 4456; Hemingway's 1917, § 4572; 1930, § 4680; 1942, § 8472.

Cross References — Bonds of county and beat officers, see §§ 25-1-19 et seq.
Bond required of keepers of toll bridges and ferries, see also § 65-21-9.
Suits on bond, see § 65-27-7.
Criminal penalty for failure to give bond, see § 97-15-17.

§ 65-27-7. Bond may be sued on.

The bond given by the keeper of a toll ferry, bridge, turnpike, causeway, or plank road may be put in suit by the county, or by any person damaged, for a breach thereof; and the bond may be sued on from time to time until the whole penalty be recovered. The board of supervisors may require such bonds to be renewed when proper.

SOURCES: Codes, Hutchinson's 1848, ch. 10, art. 7 (36); 1857, ch. 15, art. 43; 1871, § 2381; 1880, § 873; 1892, § 3944; 1906, § 4457; Hemingway's 1917, § 4573; 1930, § 4681; 1942, § 8473.

Cross References — Recovery of penalties and forfeitures, see § 65-27-9.

§ 65-27-9. Penalties, forfeitures, and damages recovered.

All penalties and forfeitures incurred by the owner or keeper of a toll ferry, bridge, turnpike, causeway, or plank road may be recovered by suit on the bond of the owner or keeper, one half to go to the person who sues for it, the other half to be paid into the county treasury; and damages may likewise be recovered against such owner or keeper by suit on the bond.

SOURCES: Codes, 1892, § 3949; 1906, § 4462; Hemingway's 1917, § 4578; 1930, § 4682; 1942, § 8474.

§ 65-27-11. Purchase of competing ferry.

Any county or municipality authorized to construct bridges and issue bridge revenue bonds to pay the cost thereof is hereby authorized to acquire by purchase any competing ferry or ferries within fifteen miles of any such bridge, and to include the cost thereof as a part of the cost of construction of such bridge.

SOURCES: Codes, 1942, § 8475; Laws, 1938, Ex. ch. 72.

Cross References — Bridges and bridge revenue bonds, see §§ 65-25-1 et seq.

§ 65-27-13. Equipment for safe transportation by ferry.

The owner or keeper of every ferry shall at all times be provided with good and tight boats suited to the ferry, sufficient in size, strength, steadiness, and accommodation for the safe and speedy transportation of passengers, vehicles, horses, cattle, and goods, well furnished with all necessary machinery, oars, poles, and other appliances, and men, prudent, skilful and competent to such business and service; and the banks and landing places shall be kept in good order, so as to be safe and easy for travelers. If any owner or keeper of a ferry shall convey or attempt to carry any person over any ferry in a boat not good and sufficient and furnished and manned according to law, or without having such banks and landing places in good order, he shall be liable to a penalty of ten dollars for each offense, besides being liable to the parties injured for any damages sustained.

SOURCES: Codes, 1857, ch. 15, art. 45; 1871, § 2383; 1880, § 877; 1892, § 3947; 1906, § 4460; Hemingway's 1917, § 4576; 1930, § 4683; 1942, § 8476.

Cross References — Bond of ferry keeper, see § 65-27-5.

JUDICIAL DECISIONS

1. In general.

The keeper of a free public ferry, under contract with the board of supervisors, is liable under this section for all damages occasioned by his negligence. Sparkman v. Graham, 79 Miss. 376, 30 So. 713 (1901).

RESEARCH REFERENCES

Am Jur. 35A Am. Jur. 2d, Ferries §§ 63-67.

12 Am. Jur. Pl & Pr Forms (Rev), Ferries, Form 11. (complaint alleging failure to provide safe access to ferryboat).

12 Am. Jur. Pl & Pr Forms (Rev), Ferries, Form 14. (jury instructions on duty of care owed passengers by public ferryman).

§ 65-27-15. Duties of ferrymen.

Every ferryman shall give constant and diligent attendance at his ferry and shall not deny or unreasonably delay carrying over any passenger, horse, cattle, carriage, or goods; and all passengers shall be received into the ferryboat and carried over the ferry in the order of their arrival, or first coming to the ferry. Any ferryman offending against this provision shall forfeit the sum of ten dollars for every offense, and shall be liable to an action for damages at the suit of the party aggrieved; but a ferryman shall not be obliged to pass the ferry when it appears to be dangerous to do so on account of a storm or freshet. All public officers and such as go on public and urgent occasions — as posts, expresses, physicians, and the like — shall be carried over first, or with the first.

SOURCES: Codes, 1857, ch. 15, art. 46; 1871, § 2384; 1880, § 878; 1892, § 3948; 1906, § 4461; Hemingway's 1917, § 4577; 1930, § 4684; 1942, § 8477.

Cross References — Bond of ferry keeper, see § 65-27-5.
Criminal penalty for extortionate charges, see § 97-15-15.
Criminal penalty for unreasonable detention of passengers, see § 97-15-19.

RESEARCH REFERENCES

Am Jur. 35A Am. Jur. 2d, Ferries §§ 55 et seq.

CJS. 36A C.J.S., Ferries §§ 29, 30, 31.

§ 65-27-17. Table of rates of tolls kept exposed to view.

The owner or keeper of every toll ferry, bridge, turnpike, causeway, and plank road shall put up, in a convenient place, so as to be open and visible to travelers, a copy of the table of rates of toll established by the board of supervisors, printed, written, or painted in legible characters. For every day's failure to put up and keep exposed to view such table of rates, and for every overcharge made by him, such owner or keeper shall forfeit and pay the sum of ten dollars.

SOURCES: Codes, 1857, ch. 15, art. 44; 1871, § 2382; 1880, § 876; 1892, § 3946; 1906, § 4459; Hemingway's 1917, § 4575; 1930, § 4685; 1942, § 8478.

Cross References — Criminal penalty for extortionate charges, see § 97-15-15.

RESEARCH REFERENCES

Am Jur. 35A Am. Jur. 2d, Ferries § 54.

CJS. 36A C.J.S., Ferries § 27.

§ 65-27-19. Authority of ferryman over his boat.

Every ferryman shall have authority to keep out or put out of his ferry boat or other vessel any person who shall attempt or press to enter or stay in his boat or vessel contrary to his orders. Any person so doing, contrary to order, shall be guilty of a misdemeanor and, on conviction, be fined not less than five nor more than twenty-five dollars.

SOURCES: Codes, 1857, ch. 15, art. 47; 1871, § 2385; 1880, § 879; 1892, § 3950; 1906, § 4463; Hemingway's 1917, § 4579; 1930, § 4686; 1942, § 8479.

Cross References — Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

§ 65-27-21. Right of landing in another county.

The owner or keeper of any ferry established according to law, on any stream of water being the dividing line between two counties, shall have the right of landing on the opposite side of the stream in the other county and to unload any passengers, wagons, carriages and their loading, and stock of all kinds without any hindrance or molestation. Any person hindering or molesting such landing or unloading shall forfeit and pay to the owner or keeper of the ferry the sum of ten dollars for each offense.

SOURCES: Codes, Hutchinson's 1848, ch. 10, art. 4; 1857, ch. 15, art. 48; 1871, § 2386; 1880, § 880; 1892, § 3951; 1906, § 4464; Hemingway's 1917, § 4580; 1930, § 4687; 1942, § 8480.

RESEARCH REFERENCES

Am Jur. 35A Am. Jur. 2d, Ferries §§ 25, 26.

CJS. 36A C.J.S., Ferries § 21.

CHAPTER 29

Ferries in Certain Counties

Sec.
65-29-1. Certain counties authorized to levy tax.
65-29-3. Tax receipts paid over to trustee or ferry fund.
65-29-5. County may operate ferry service.
65-29-7. Collection of rents and charges.
65-29-9. Debt limitations not applicable.
65-29-11. Bonds authorized and books open to inspection.
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65-29-15. Power and duties of trustee.
65-29-17. Bonds exempt from certain taxes.
65-29-19. General bond provisions.
65-29-21. Deposit of bond proceeds.
65-29-23. Mortgage to secure bonds.
65-29-25. Ferry commission.
65-29-27. Terminal municipality authorized to contribute to free ferry.
65-29-29. Chapter paramount to other laws.

§ 65-29-1. Certain counties authorized to levy tax.

An ad valorem tax of two mills on each dollar of the total assessed valuation of all the taxable property in each county or counties in the State of Mississippi in which there is located a city or town upon any river or waters, which rivers or waters separate two United States highways, which highways are separated by such water but are otherwise connected by the streets of a municipality in said county connecting said highways except for said water, is hereby levied on all said taxable property in said county in or for each year in which the principal of or interest on any bonds or other obligations issued by any municipality or county pursuant to this chapter becomes due. The receipts from said two-mill tax shall be withheld by the tax collector of said county, or by any other tax collecting agency authorized by law for the collection of said taxes, from receipts from state ad valorem taxes now in effect or which may be hereafter levied, so long as said state ad valorem shall be not less than the said two-mill tax herein levied. If no state ad valorem taxes equal to or greater than the said two-mill tax herein levied is levied, then, and in that event, the said two-mill tax herein levied shall continue to be levied and collected as herein provided in each such county or counties in or for each year in which the principal of or interest on any bonds or other obligations issued by any municipality pursuant to this chapter becomes due.

SOURCES: Codes, 1942, § 8481; Laws, 1934, ch. 218.

§ 65-29-3. Tax receipts paid over to trustee or ferry fund.

Said tax collector, or any other tax collecting agency authorized by law for the collection of said taxes, shall pay over all moneys collected or to be collected as receipts from said two-mill tax to any trustee or successor thereto established as hereinafter in this chapter provided, and in the event that there is no such trustee, then said tax collector, or any other tax collecting agency authorized by law for collection of said taxes, shall pay over all such moneys into the county depository of each such county to the credit of a fund which shall be known as a "ferry fund." Any such moneys so paid into the county depository of each such county to the credit of said "ferry fund" may be expended at the direction of the ferry commission appointed for any county ferry. In no county within the terms of this chapter shall there be withheld from the state treasury under the provisions of this chapter and Sections 59-7-1 through 59-7-21, Mississippi Code of 1972, for any one year an amount in excess of the receipts from said two-mill tax. The provisions of this chapter shall be deemed to be a contract with the holders of any bonds or other obligations issued pursuant to this chapter.

SOURCES: Codes, 1942, § 8482; Laws, 1934, ch. 218.

§ 65-29-5. County may operate ferry service.

The authorities of any county in which there is situated and located, in whole or in part, a county ferry, are hereby given the authority to engage in, either directly or through the commission hereinafter provided and designated and such other agencies as hereafter may be provided by law, promoting, developing, constructing, maintaining, and operating or contract to have operated a ferry or ferries and ferry service within the county and its jurisdiction and to the opposite shore of an adjoining county or state, and either directly or through the commission hereinafter provided, shall have the power to acquire, purchase, install, rent, lease, mortgage, or otherwise encumber, to construct, own, hold, maintain, equip, use, control, and operate wharves, piers, docks, quays, warehouses, other water and rail terminals, and other necessary structures and facilities needful for the convenient use of the same in the aid of ferry service from said county to adjoining county or state. The entire cost to any such county or city of engaging in such work or development shall not exceed the sum of two hundred thousand dollars for lands and equipment and annually not more than fifty thousand dollars for maintenance, repairs, and operations.

SOURCES: Codes, 1942, § 8483; Laws, 1934, ch. 218.

RESEARCH REFERENCES

Am Jur. 35A Am. Jur. 2d, Ferries §§ 13, 14, 33, 53.

CJS. 36A C.J.S., Ferries § 7.

§ 65-29-7. Collection of rents and charges.

Said county authorities or ferry commission if there be one shall, subject to and in accordance with any agreement or agreements as may be made by any such county or municipality with the purchaser or purchasers of bonds or other obligations issued pursuant to this chapter, prescribe, levy, and collect all rents, fees, tolls, revenues, and other charges in connection with the use and occupancy of the aforesaid improvements and facilities, and shall pay over all net revenues derived from the operation of said improvements and facilities to any trustee, or successor thereto, established as hereinafter in this chapter provided. Net revenues shall be deemed to be such as may be defined in any agreement or agreements entered into between any such municipality and the purchaser or purchasers of any bonds or other obligations issued pursuant to this chapter. The said ferry commission shall make an annual report to the governor of the State of Mississippi, to the county or municipality having such ferry, and to the state legislature.

SOURCES: Codes, 1942, § 8484; Laws, 1934, ch. 218; Laws, 1970, ch. 322, § 1, eff from and after July 1, 1970.

Cross References — Power and duties of trustee, see § 65-29-15.

§ 65-29-9. Debt limitations not applicable.

The bonds or other obligations issued by any county or municipality of the State of Mississippi pursuant to this chapter shall not constitute a debt within the meaning of any statutory limitation as to the amount of debt which may be incurred by any such municipality or county. Nor shall such bonds or other obligations be payable out of any funds other than the revenue collected or collectible from the use of said docks, harbors, and facilities of whatsoever nature, if any, and out of the receipts from the said two-mill ad valorem tax or special levy made by any county or municipality in accordance with the provisions of Section 65-29-1.

SOURCES: Codes, 1942, § 8485; Laws, 1934, ch. 218.

Cross References — Limitation of county's indebtedness generally, see § 19-9-5. Limitation on municipal indebtedness, see § 21-33-303.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations § 56.

§ 65-29-11. Bonds authorized and books open to inspection.

Any municipality or county in which there is situated and located, in whole or in part, a ferry as aforesaid is hereby given authority, upon the adoption of a resolution to such effect, to issue bonds or other obligations for any or all of the purposes as in this chapter provided. The books of account and other sources of information pertaining to duties under the provisions of this chapter, or any ferry commission, municipality, or county affected by this chapter, shall be and remain at all times open to inspection and subject to audit by the holder or holders of any bonds or other obligations issued pursuant to this chapter.

SOURCES: Codes, 1942, § 8486; Laws, 1934, ch. 218.

Cross References — Tax exemption of bonds, see § 65-29-17.
Sale of bonds, see § 65-29-19.
Securing of bonds by mortgage, see § 65-29-23.

JUDICIAL DECISIONS

1. In general.

Ferry owned and operated by private corporation within city limits, under franchise granted by city which owned landing wharf used by ferry operated under rules promulgated by city officers, was not a "county ferry," within Act authorizing any county having county ferry to issue bonds to provide ferry service, as against contention that words of Act were applicable to any county wherein there was located a ferry regardless of whether county owned or controlled ferry. Green v. Board of Supvrs., 173 Miss. 745, 163 So. 121 (1935).

Order of board of supervisors authorizing issuance of bonds for ferry purposes to connect two United States highways which showed that it required the use of streets of municipality in a foreign State, over which neither the county nor municipality located therein had any jurisdiction, to secure a connection with another United States highway on the opposite shore did not entitle county to come under Act relating to issuance of bonds for ferry purposes, notwithstanding that on hearing of bond validation proceedings oral proof was introduced which tended to supply facts necessary to show jurisdiction. Green v. Board of Supvrs., 172 Miss. 573, 161 So. 139 (1935).

§ 65-29-13. Powers of county or municipality.

In connection with the issuance of bonds or other obligations by any municipality and county pursuant to this chapter, or in order to secure the payment of said bonds or other obligations, such county or municipality shall have power:

(a) To accept grants from the United States of America, the president of the United States, the federal emergency administration of public works, or such other agencies, instrumentalities, or corporations as may be designated or created to make grants or loans (hereinafter termed "federal agency") pursuant to the National Industrial Recovery Act and any further act of the congress of the United States providing for the construction of useful public works (hereinafter termed "National Industrial Recovery Act") for or in aid of work, development, or improvement authorized by this chapter.

(b) To make such contracts and execute such instruments containing such provisions, covenants, and conditions as, in the discretion of the authorities of any such municipalities or county, may be necessary, proper, or advisable for the purpose of obtaining or securing grants, loans, or other financial assistance from any federal agency pursuant to the National Industrial Recovery Act; to make such further, different, or additional contracts and execute all instruments necessary or convenient in or for the furtherance of any work, development, or improvement, including but not limited to all property, real and personal, appurtenant thereto or connected therewith and the existing work, development, or improvement, if any, to which the work, development, or improvement authorized by this chapter is an extension, addition, betterment, or embellishment (hereinafter termed "work, development, or improvement"); to carry out and perform the terms and conditions of any such contract or instrument.

(c) To pledge all or any part of the fees, rents, tolls, revenues, or other charges received or receivable by such municipality or county or ferry commission from any work, development, or improvement to which its right then exists or the right to which may thereafter come into existence.

(d) To covenant against the pledging of all or any part of the fees, rents, tolls, revenues, or other charges received or receivable by such municipality or county or ferry commission, if any, from any work, transportation development, or improvement to which its right then exists or the right to which may thereafter come into existence.

(e) To covenant against the encumbering of all or any part of any work, development, or improvement, or against permitting or suffering any lien thereon.

(f) To covenant as to what other or additional debt may be incurred by such municipality or county.

(g) To provide for the preparation, specifications, terms, form, registration, extension, execution, and authentication of any bonds or other obligations issued pursuant to this chapter.

(h) To provide for the replacement of lost, destroyed, or mutilated bonds or other obligations issued pursuant to this chapter.

(i) To covenant as to the fees, rents, revenues, or tolls to be charged, the amount to be raised each year or other period of time, and as to the use and disbursement to be made thereof.

(j) To covenant to set aside or to pay over reserves and sinking funds and as to the disposal thereof.

(k) To redeem prior to maturity, with or without premium, bonds or other obligations issued pursuant to this chapter, to covenant for their prior redemption, and to provide the terms and conditions thereof.

(*l*) To covenant against extending the time for the payment of the interest on or principal of the bonds or other obligations issued pursuant to this chapter, directly or indirectly, by any means or in any manner.

(m) To covenant as to books of account of such municipality or county, as to the inspection and audit thereof, and as to the accounting method.

(n) To covenant as to the rights, liabilities, powers, and duties arising upon the breach by such municipality or county of any covenant, condition, or obligation assumed pursuant to this chapter.

(o) To make such covenants and do any and all such acts and things as may be necessary, convenient, or desirable in order to secure any bonds or other obligations issued pursuant to this chapter, or in the absolute discretion of the authorities of such municipality or county in order to make such bonds or other obligations more marketable, notwithstanding that such covenants, acts, or things may not be enumerated herein or expressly authorized herein; it being the intention hereby to give the authorities of any municipality or county issuing bonds or other obligations pursuant to this chapter the power to do all things in the issuance of said bonds or other obligations and for their execution that may not be inconsistent with the constitution of the State of Mississippi.

SOURCES: Codes, 1942, § 8487; Laws, 1934, ch. 218.

Cross References — Securing bonds by mortgage, see § 65-29-23.

§ 65-29-15. Power and duties of trustee.

Any municipality or county issuing bonds or other obligations pursuant to this chapter shall, so long as any such bonds or other obligations remain outstanding and unpaid, by resolution or resolutions duly adopted, authorize and appoint a trustee, satisfactory to the purchaser or purchasers of any bonds or other obligations issued pursuant to this chapter, or any successor thereto, with the following powers and duties:

(a) Such trustee so appointed, or any successor thereto, shall receive and receipt for all moneys collected or to be collected as receipts from the aforesaid two-mill tax by the aforesaid tax collector, or any other tax collecting agency authorized by law for the collection of said taxes, as provided in Section 65-29-1;

(b) Such trustee so appointed, or any successor thereto, shall receive and receipt for all moneys paid or to be paid to it in accordance with Section 65-29-5, constituting the net revenues derived from the operation of the improvements and facilities authorized by this chapter;

(c) Such trustee so appointed, or any successor thereto, shall deposit all moneys received or to be received in a special account or accounts in a bank or banks which are members of the federal reserve system, with such provisions for security therefor as may be incorporated in any agreement or agreements entered into between any such municipality and the purchaser or purchasers of any such bonds or other obligations;

(d) Such trustee so appointed, or any successor thereto, shall use and apply all such moneys so received to the payment of principal of and interest on any bonds or other obligations issued by any municipality or county pursuant to this chapter, as the same become due, and shall use and apply any surplus remaining after such payment or payments for the prior redemption, with or without premium, of bonds or other obligations issued by any municipality or county pursuant to this chapter, or in accordance with the provisions of any agreement or agreements as may be made between any municipality issuing bonds or other obligations pursuant to this chapter and the purchaser or purchasers of such bonds or other obligations;

(e) Such trustee so appointed, or any successor thereto, shall have and be vested with all rights, powers, and duties, in addition to the foregoing, as may be provided in any agreement or agreements between any municipality or county issuing bonds or other obligations pursuant to this chapter and the purchaser or purchasers of such bonds or other obligations;

(f) Such trustee so appointed, or any successor thereto, shall, by an instrument of writing, accept such trust and shall file such written acceptance of such trust with the clerk of the municipality or county so appointing such trustee;

(g) If such trustee so appointed, or any successor thereto, shall fail, neglect or refuse to perform any of the duties herein imposed or that may be imposed by reason of any of the provisions of any agreement or agreements as aforesaid, such trustee, or any successor thereto, shall, on the written request of twenty per centum or more in aggregate principal amount of the holder or holders of bonds or other obligations issued pursuant to this chapter, be removed, by resolution duly adopted by the municipality or county, by which such trustee or any successor thereto, was appointed; and in such event, it shall be the duty of any such trustee so removed to effectuate a valid transfer of all moneys then in the possession or under the control of such trustee so removed to a duly appointed successor, and a failure on the part of such trustee so removed to do so shall constitute an embezzlement of such moneys and shall be punishable accordingly;

(h) In the event any such trustee so appointed, or any successor thereto, shall be removed as hereinabove provided, it shall be the duty of any municipality or county which shall have removed any such trustee, immediately by resolution duly adopted to appoint a trustee, as successor thereto, who is satisfactory to said holder or holders of twenty per centum or more in aggregate principal amount of bonds or other obligations issued pursuant to this chapter.

SOURCES: Codes, 1942, § 8488; Laws, 1934, ch. 218.

Cross References — Deposit of bond proceeds, see § 65-29-21.

§ 65-29-17. Bonds exempt from certain taxes.

Bonds or other obligations issued pursuant to this chapter and any interest thereon or income therefrom shall be exempt from all taxation, except gift, transfer, and inheritance taxes, in so far as may be within the power of the State of Mississippi so to provide.

SOURCES: Codes, 1942, § 8489; Laws, 1934, ch. 218.

§ 65-29-19. General bond provisions.

The power to issue bonds or other obligations authorized by Section 65-29-11 shall be vested in, and may be exercised from time to time by, the governing body of any municipality or county described in said section. Such bonds or other obligations shall be authorized by resolution of the governing body of any such municipality and shall bear such date or dates, mature at such time or times, not exceeding twenty-five years from their respective dates, bear interest at such rate or rates, not exceeding six per centum per annum, be in such denomination, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of prior redemption, with or without premium, as such resolution or resolutions shall provide. Such bonds or other obligations may be sold at public or private sale for such price or prices as the governing body of such municipality or county shall determine, provided that the interest cost to maturity of the money received from any issue of said bonds or other obligations shall not exceed six per centum per annum. Such bonds or other obligations may be issued by any municipality or county described in Section 65-29-11 in a principal amount not exceeding in the aggregate two hundred thousand dollars, for any purpose or purposes authorized by said section. Such municipality or county shall have the power out of any funds available to purchase any bonds or other obligations issued by it pursuant to this chapter, and all bonds or other obligations so purchased shall be cancelled and no bonds or other obligations shall be issued in lieu thereof. In anticipation of the issuance of the definitive bonds authorized by this chapter, any such municipality or county may issue interim certificates. Such interim certificates shall be in such form, contain such terms, conditions, or provisions, bear such dates or date, and evidence such agreement or agreements relating to their discharge by payment or by the delivery of the definitive bonds, as such municipality or county by resolution of its governing body may determine. Any bonds, interim certificates, or other obligations issued pursuant to this chapter shall be fully negotiable within the meaning and for all the purposes of the Uniform Commercial Code of Mississippi.

SOURCES: Codes, 1942, § 8490; Laws, 1934, ch. 218.

Cross References — Negotiable instruments under the Mississippi Uniform Commercial Code, see §§ 75-3-101 et seq.

§ 65-29-21. Deposit of bond proceeds.

The proceeds from the sale of any bonds or other obligations issued pursuant to this chapter shall be placed to the credit of such municipality, county, ferry commission, or trustee in a bank or banks which are members of the federal reserve system, may be withdrawn therefrom in accordance with any agreement or agreements entered into between such municipality and the purchaser or purchasers of such bonds or other obligations, and shall be used for no other purpose than the purpose or purposes set forth in the original resolution of the governing body of such municipality. Any officer or other person diverting or assisting to divert any such funds to any other purpose or purposes than the purpose or purposes originally set forth in said resolution of the governing body of said municipality or county shall be guilty of a felony and punishable accordingly, and shall be liable both personally and officially on bond for such diversion. Nothing in this chapter shall be construed as a guarantee on the part of the State of Mississippi to pay the principal of or interest on any bonds or other obligations issued pursuant to this chapter.

SOURCES: Codes, 1942, § 8491; Laws, 1934, ch. 218.

Cross References — Powers and duties of trustee, see § 69-29-15.

§ 65-29-23. Mortgage to secure bonds.

Any municipality or county issuing bonds or other obligations pursuant to this chapter, by resolution or resolutions duly adopted, is hereby given authority to execute and deliver a mortgage or deed of trust in such form, with such validity, and with such remedies as at present authorized under the laws of the State of Mississippi, on any or all properties, improvements, and facilities, the acquisition, construction, maintenance, or operation of which are provided by this chapter. Such resolution or resolutions of said municipality or county shall prescribe the provisions, covenants, and conditions of any such mortgage or deed of trust. Such provisions, covenants, and conditions, if not self-executing, may be enforced by appropriate proceedings, either in law or in equity.

SOURCES: Codes, 1942, § 8492; Laws, 1934, ch. 218.

§ 65-29-25. Ferry commission.

Said ferries may be maintained, purchased, and operated, or either, by the board of supervisors of each county which comes in under this chapter or by a ferry commission consisting of not more than three members, which ferry commission may be designated by the board of supervisors of each county. Such commission, if so designated, shall receive a salary of not to exceed four hundred ($400.00) dollars each per annum, to be paid out of the funds hereinabove designated as being set aside for ferry purposes.

Where said ferriage fund is being supplemented by funds as herein provided from any municipality or municipalities within said county, and said ferriage and other things pertaining thereto are to be supervised and operated by a ferry commission, then said commission shall be composed of the president of the board of supervisors of said county, the mayor or mayors of any such municipality or municipalities that may contribute to said fund as herein provided, and one other person to be chosen by the governor and who shall serve during the tenure of such ferry operation, shall act as chairman of said commission, and shall be the only member of said commission to receive compensation, such compensation to be paid out of funds hereinabove designated and set aside for ferry purposes and shall be fixed at $1,200.00 per annum.

SOURCES: Codes, 1942, § 8493; Laws, 1934, ch. 218.

§ 65-29-27. Terminal municipality authorized to contribute to free ferry.

Any municipality within whose confines one of the terminals is located shall have the right, power, and authority, whether such municipality be special charter or otherwise, to set aside and appropriate from its general fund as much as three mills for the defraying of the expenses of operation of said free or limited free ferry service.

SOURCES: Codes, 1942, § 8494; Laws, 1934, ch. 218.

§ 65-29-29. Chapter paramount to other laws.

This chapter, as to the subject matters hereof, shall supersede all other laws, general, special, or local, including charters of municipalities. Any municipality issuing bonds or other obligations pursuant to this chapter shall have no power thereafter to issue bonds or other obligations pursuant to the provisions of Sections 59-7-1 through 59-7-21, Mississippi Code of 1972, unless and until all bonds or other obligations issued pursuant to this chapter, and interest thereon, have been fully paid and discharged.

SOURCES: Codes, 1942, § 8496; Laws, 1934, ch. 218.

CHAPTER 31

Hospitality Stations on Highways

Sec.
65-31-1. Design, construction, and operation.
65-31-3. Contracts for operation.
65-31-5. Acceptance of gifts and grants.
65-31-7. Commemorative sign; birthplace of Jimmie Rodgers.
65-31-9. "Senator Delma Furniss Hospitality Station" designated.
65-31-11. Katrina volunteers memorial fountain.
65-31-13. "'Dizzy' Dean Rest Area" designated.
65-31-15. "Capers, Blake, Scales Rest Area" designated.

§ 65-31-1. Design, construction, and operation.

The Mississippi Transportation Commission is hereby authorized to locate, design, construct, operate, and maintain hospitality stations on trunkline highways at or near points of entry into this state from other states. In carrying out the provisions of this chapter, the commission shall have authority to employ such engineers, architects, skilled and unskilled labor as may be determined necessary by the commission, for the preparation of plans for such hospitality stations and their proper location, design, construction, maintenance, and operation. The commission also may employ full-time security officers, as authorized under Section 65-1-131, and/or may contract for the employment of private security officers, as authorized under Section 65-1-136, to patrol and protect the property of hospitality stations and visitors, patrons and other employees of hospitality stations.

Prior to the location of such hospitality stations the commission shall afford the opportunity for a public hearing in the county wherein such hospitality station is to be located for the purpose of receiving testimony regarding the most feasible and advantageous location for such hospitality station, at which hearing all interested persons may appear and present testimony in regard thereto. A notice of such proposed location shall be given in some newspaper published or having general circulation in the county wherein such hospitality station is proposed to be located. Should a public hearing be requested thereon, notice by publication shall be given at least ten (10) days prior to the date upon which public hearing is to be held and written notice thereof shall likewise be given, within said time, to the governing authorities of all municipalities within such county and the governing authority of such county.

Each hospitality station constructed under the provisions of this chapter shall be maintained and kept in a neat and attractive condition.

SOURCES: Codes, 1942, § 8940-71; Laws, 1968, ch. 474, § 1; Laws, 1972, ch. 444, § 1; Laws, 1996, ch. 425, § 5, eff from and after July 1, 1996.

Cross References — Promotion of trade, conventions and tourism generally, see §§ 17-3-1 et seq.

Regional tourist promotion councils, see §§ 57-27-1 et seq.

Travel and tourism in connection with publication of a vacation guide, see §§ 57-29-1 et seq.

Mississippi Transportation Commission, generally, see §§ 65-1-3 et seq.

§ 65-31-3. Contracts for operation.

The State Highway Commission is authorized to contract with the Department of Economic and Community Development, on terms and conditions agreeable between the two (2) state agencies, for the operation of one or more of such hospitality stations constructed under the provisions of this chapter. The commission and the department are further authorized to enter into agreement with an adjoining state for the operation of a hospitality station on an interstate highway where the states' boundary is the Mississippi River and there is no feasible location for a hospitality station between the bank of the Mississippi River and a national military park in the State of Mississippi, or where the states' boundary is the Pearl River and there is no feasible location for a hospitality station between the bank of the Pearl River and the buffer zone to a test facility operated by the National Aeronautics and Space Administration in the State of Mississippi. The commission and the department are authorized to pay whatever expenses may be agreed upon between the two (2) states as to the fair share of the operating and maintenance cost of the hospitality station operated primarily for the benefit of the state. Such contracts and agreements shall provide for the furnishing of suitable personnel for the operation of such stations and that such stations shall be kept supplied with such information, pamphlets and other materials as will advertise and publicize the history, commerce, industry, natural resources and tourist attractions of this state. Such information, pamphlets and other materials shall be available to the traveling public and shall be distributed by the personnel employed to operate such stations. The agency operating such hospitality stations shall provide for the free distribution to the traveling public of such literature, pamphlets, refreshments and other items that may be of interest to tourists in such manner as deemed to be in the best interest of promoting the tourist trade in this state. Such agency may sell, or contract for the sale of, merchandise on the premises of any hospitality station, provided such sale or contract for sale is subject to any applicable federal laws and Section 43-3-93. Revenue derived from such sales shall be paid into the special revolving fund established pursuant to Section 57-1-66 and shall be expended to promote and market Mississippi and to maintain and improve hospitality stations.

SOURCES: Codes, 1942, § 8940-72; Laws, 1968, ch. 474, § 2; Laws, 1970, ch. 444, § 1; Laws, 1972, ch. 444, § 2; Laws, 1992, ch. 579, § 2, eff from and after July 1, 1992.

Editor's Note — Section 57-1-54 provides that the Mississippi Development Authority shall be the Department of Economic and Community Development, and that whenever the term "Mississippi Department of Economic and Community Development," "Mississippi Department of Economic Development," or any variation thereof, appears in any law the same shall mean the Mississippi Development Authority.

Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

Cross References — Department of economic and community development, generally, see §§ 57-1-1 et seq.

Regional tourist promotion councils, see §§ 57-27-1 et seq.

§ 65-31-5. Acceptance of gifts and grants.

Both the State Highway Commission and the agricultural and industrial board in exercising the powers granted in this chapter are hereby authorized to accept private donations and public grants which may be available to them, respectively, for the furtherance of the purposes of this chapter. In addition thereto, either or both of such agencies may expend, for the purposes of this chapter, any funds available to them not otherwise specifically designated for a different public purpose. Each of such agencies shall cooperate with other state agencies in carrying out the provisions of this chapter.

SOURCES: Codes, 1942, § 8940-73; Laws, 1968, ch. 474, § 3, eff from and after passage (approved August 7, 1968).

Editor's Note — Section 57-1-54 provides that the Mississippi Development Authority shall be the Department of Economic and Community Development, and that whenever the term "Mississippi Department of Economic and Community Development," "Mississippi Department of Economic Development," or any variation thereof, appears in any law the same shall mean the Mississippi Development Authority.

Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 65-31-7. Commemorative sign; birthplace of Jimmie Rodgers.

(1) The Mississippi State Highway Department is hereby authorized, in the event private donations are made available therefor, to erect an appropriate commemorative sign at the state hospitality station located on federal Interstate Highway 20 east of Meridian, Mississippi, to read as follows:

"WELCOME TO MISSISSIPPI BIRTHPLACE OF JIMMIE RODGERS THE
FATHER OF COUNTRY MUSIC"

Such sign shall be attractive and designed to invite and encourage tourism and recreation in the state.

(2) The Mississippi State Highway Department is hereby authorized to accept and expend private donations for the purchase, installation and maintenance of the sign authorized hereunder. No state funds shall be expended for such purpose.

SOURCES: Laws, 1982, ch. 329, §§ 1, 2, eff from and after July 1, 1982.

Editor's Note — Section 65-1-1 provides that the term "State Highway Department," or the word "department" meaning the Mississippi State Highway Department, means the "Mississippi Department of Transportation."

§ 65-31-9. "Senator Delma Furniss Hospitality Station" designated.

(1) The state hospitality station constructed and located at the intersection of U.S. Highway 49 and U.S. Highway 61 in Coahoma County is designated and shall be known as the "Senator Delma Furniss Hospitality Station."

(2) The Mississippi Department of Transportation shall erect and maintain suitable signs at and approaching the hospitality station, reflecting its name.

SOURCES: Laws, 2003, ch. 366, § 1, eff from and after passage (approved Mar. 13, 2003.)

§ 65-31-11. Katrina volunteers memorial fountain.

The Mississippi Transportation Commission, in its discretion, by order duly adopted and entered upon its official minutes, may authorize the Katrina Volunteers Memorial Fountain Committee, acting under board approved sponsorship of the Diamondhead Continuing Education, Inc., and at its own expense, to design, construct and maintain at a location approved by the commission on property of the welcome center near I-10 in western Hancock County, a fountain and suitable memorial in recognition and appreciation of the thousands of volunteers who donated their time and money to assist the citizens of Mississippi in recovering from the destruction and in the rebuilding efforts following Hurricane Katrina.

SOURCES: Laws, 2007, ch. 545, § 4, eff from and after passage (approved Apr. 18, 2007.)

§ 65-31-13. "'Dizzy' Dean Rest Area" designated.

(1) The Mississippi Department of Transportation rest area located along U.S. Highway 49 in Wiggins, Mississippi, is designated and shall be known as the "'Dizzy' Dean Rest Area."

(2) The Mississippi Department of Transportation shall erect and maintain suitable signs at and approaching the rest area, reflecting its name, and may place a plaque at such rest area in memory of Dizzy's extraordinary contributions to the sport of baseball.

SOURCES: Laws, 2007, ch. 410, § 1, eff from and after passage (approved Mar. 16, 2007.)

§ 65-31-15. "Capers, Blake, Scales Rest Area" designated.

(1) The Mississippi Department of Transportation rest area located along U.S. Highway 49 in Pocahontas, Mississippi, is designated and shall be known as the "Capers, Blake, Scales Rest Area."

(2) The Mississippi Department of Transportation shall erect and maintain suitable signs at and approaching the rest area, reflecting its name, and may place a plaque at such rest area.

SOURCES: Laws, 2008, ch. 510, § 2, eff from and after passage (approved May 7, 2008.)

CHAPTER 33

Sea Walls

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§ 65-33-1. Certain counties may erect sea walls and issue bonds.

When any public road, street or highway shall extend along the beach or shore of any body of tidewater, and such road, street, or highway, or any part thereof shall be exposed or subject to, or in danger of, damage by water driven against the shore by storms, the boards of supervisors shall have the power, and it is hereby made their duty, to erect and maintain all necessary seawalls, breakwaters, bulkheads, shore stabilization structures, causeways, bridges, breakwaters, or other necessary structures or improvements connecting the beach or shore of any such bodies of water with islands or other land areas located offshore or connecting therewith, pumped-in sand or earth fills, sloping beaches, topping, road surfacing, road protection pavements, aprons, or other necessary devices to protect and preserve such roads, streets, and highways, or to increase the strength or stability of any existing road protection structures by hard surface aprons or other road protection devices or structures, and for that purpose and for the purpose of constructing or improving such highway, may issue the bonds of the county therefor.

SOURCES: Codes, 1930, § 6918; 1942, § 8499; Laws, 1924, ch. 319; Laws, 1928, ch. 18; Laws, 1954, ch. 304.

JUDICIAL DECISIONS

1. In general.

The ultimate purpose for the construction and maintenance of a seawall is the protection of the public roads and bridges in the counties bordering upon the Gulf of Mexico or the Mississippi Sound from damage and destruction from waters, high winds and storms of the gulf, so that the ultimate object of the seawall fund and the county road and bridge fund is the same, which is the construction, preservation, protection and maintenance of the road and bridges of the county. Darby v. State, 232 Miss. 639, 100 So. 2d 125 (1958).

Law authorizing county to construct sea wall did not impliedly repeal law requiring county to pay one-half of ad valorem road taxes to municipality. Board of Supvrs. v. City of Bay St. Louis, 157 Miss. 459, 128 So. 331 (1930).

Road protection commission and board of supervisors may, from funds voted, construct protection wall with protecting apron back thereof, which may be used as highway; board of supervisors constructing road along the beach or shore need not adhere to old road's right of way; this statute does not violate constitution giving boards of supervisors jurisdiction over road. Ladner v. Road Protection Comm'n, 150 Miss. 416, 116 So. 602 (1928).

Changes, pending advertisement for bids, in plans and specifications for sea wall affecting storm hazard and liquidated damages, were material, requiring new advertisement. Board of Supvrs. v. Cooper, 147 Miss. 57, 112 So. 682 (1927).

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 1 et seq.

§ 65-33-3. Definitions.

The words "sea wall," as used in this chapter, shall be held to include filling behind the sea wall, culverts, sluiceways, flood gates, and any other construction work found necessary for the protection of the water front from storms, caving banks, overflow, and other like dangers.

The terms "roads, streets, avenues, and highways" as herein used shall include all such roads, streets, avenues, and highways as may form any part of any highway extending along such body of water through or across such county, or any other existing or contemplated public road, street, avenue, or highway connected therewith, extending to or along the side of a harbor or to a boat landing or dock, which, in the discretion of the board of supervisors of such county, is in need of the protection provided in this chapter, whether the same is under the jurisdiction of the national government, the state, the county, or of any municipality.

SOURCES: Codes, Hemingway's 1917, § 7458; 1930, §§ 6916, 6917, 6918; 1942, §§ 8497, 8498, 8499; Laws, 1914, ch. 275; Laws, 1924, ch. 319; Laws, 1928, ch. 18; Laws, 1936, ch. 274; Laws, 1954, ch. 304.

Cross References — For a definition of what constitutes a public road, see § 65-7-1.

§ 65-33-5. Preliminary steps to sea wall program.

Prior to the issuance of any bonds hereunder, and precedent to the inauguration of this program, the following steps shall be taken:

(a) Any such board of supervisors is authorized to employ competent engineers or technical assistants to make necessary preliminary plans and specifications and estimates of cost of the construction of any causeways or bridges or other structures in connection with any proposed project or projects which the board may deem necessary and proper. After said preliminary plans, specifications and estimates of cost have been approved by said board, the same shall be filed in the office of the chancery clerk of such county;

(b) Such board of supervisors shall obtain approval by the proper United States governmental authorities of the building of the proposed project, or projects, with regard to questions of navigation.

SOURCES: Codes, 1930, § 6918; 1942, § 8499; Laws, 1924, ch. 319; Laws, 1928, ch. 18; Laws, 1954, ch. 304.

§ 65-33-7. Details of revenue bond issue.

Such bonds shall be in the denomination of One Thousand Dollars ($1,000.00) each and shall mature annually, with all maturities not longer than twenty-five (25) years, with not less than one-fiftieth (1/50) of the total issue to mature each year during the first five (5) years of the life of such bonds, not less than one-twenty-fifth (1/25) of the total issue to mature each year during the succeeding ten-year period of the life of such bonds, and the remainder to be divided into approximately equal annual payments, one (1) payment to mature each year for the remaining life of such bonds. Such bonds shall not bear a greater rate of interest than the maximum amount specified in Section 75-17-103 per annum, and the denomination, form, and place or places of payment of such bonds shall be fixed in the resolution or order of the board of supervisors issuing such bonds. Such bonds shall be signed by the president of the board of supervisors and countersigned by the clerk thereof, with the official seal of the county affixed thereto, but the coupons may bear only the facsimile signatures of such president and clerk. No bonds shall be issued and sold under the provisions of Sections 65-33-1 through 65-33-15 for less than par and accrued interest, and not more than one (1) series of interest coupons shall be attached to any bonds issued under the provisions of said sections; but all interest accruing on such bonds so issued shall be payable semiannually, except that the first interest coupon attached to any such bond may be for any period not exceeding one (1) year. Such bonds shall be payable at such place or places as may be designated therein by said board, shall be fully negotiable, and shall be sold pursuant to advertised public sale at not less than par and accrued interest. Such bonds shall not be subject to other restrictions, limitations or provisions of the general laws governing the issuance and sale of bonds by the board of supervisors, and the board of supervisors may sell said bonds at any time within three (3) years after the sale has been approved in an election held for that purpose herein required, or three (3) years after the successful termination of any litigation affecting the same, or three (3) years after the acquisition of all lands in the areas to be developed as hereinafter provided, but not later; however, in no event shall the amount borrowed by any such county after May 4, 1954, exceed the amount of Twelve Million Dollars ($12,000,000.00) under the provisions of this section.

Before any bonds shall be issued under the cited sections, the board of supervisors shall adopt a resolution reciting its intention to issue such bonds and stating the amount of bonds proposed to be issued, and shall give notice of election, to be published once each week for at least three (3) consecutive weeks in at least one (1) newspaper published in such county, in accordance with the provisions of Section 19-9-13, except that such election shall be mandatory.

Such election shall be held, as far as practicable, in the same manner as other elections are held in counties. At such election, all qualified electors of such county may vote, and the ballots used at such election shall have printed thereon a brief statement of the amount and purpose of the proposed bond issue and the words "For the Bond Issue" and "Against the Bond Issue," and the voter shall vote by placing a cross (X) or check mark (√) opposite his choice on the proposition.

When the results of the election on the question of the issuance of such bonds shall have been canvassed by the election commissioners of such county and certified by them to the board of supervisors of such county, it shall be the duty of such board of supervisors to determine and adjudicate whether or not three-fifths (3⁄5) of the qualified electors who voted in such election voted in favor of the issuance of such bonds; and, unless three-fifths (3⁄5) of the qualified electors who voted in such election shall have voted in favor of the issuance of such bonds, then such bonds shall not be issued.

SOURCES: Codes, 1930, § 6918; 1942, § 8499; Laws, 1924, ch. 319; Laws, 1928, ch. 18; Laws, 1954, ch. 304; Laws, 1992, ch. 448, § 1, eff from and after July 1, 1992.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 135 et seq., 163 et seq.

§ 65-33-9. Mortgage indenture for additional bonds.

In addition to the bonds authorized under Section 65-33-7, said board shall have the authority, and it is hereby authorized, to issue and sell callable mortgage and revenue bonds in an amount not exceeding four million dollars ($4,000,000.00) to provide additional funds, if found by the board to be necessary for the purposes of Sections 65-33-1 through 65-33-15, which mortgage and revenue bonds shall be secured by a mortgage indenture on any land acquired by the board under the authority of said sections and, in the discretion of the board, by tolls to be fixed and collected by the board for the use of any such bridge or bridges, causeway or causeways, or other structure, and by any other revenue derived from any source under said sections.

Such bonds shall be in the denomination of one thousand dollars ($1,000.00) each, all shall mature within twenty-five years from the date of issuance, with such dates of maturity not to exceed twenty-five years as may be fixed in the resolution authorizing their issuance, shall bear interest not to exceed six per cent (6%) per annum to accrue and be payable semiannually, and shall be executed and sold in the manner authorized for the execution and sale of bonds, as provided in Section 65-33-7.

To secure the payment of such mortgage and revenue bonds and to fix the rights of the holders thereof, said board may execute a trust indenture constituting a mortgage lien upon any of the lands acquired under the provisions of Sections 65-33-1 through 65-33-15, and which indenture may, in the discretion of the board, pledge and assign any revenues and tolls which the board may fix and collect for the use of any bridge or bridges, causeway or causeways, or other structure financed under the provisions of said sections. Said indenture shall contain such provisions and conditions as the board may find necessary or proper, shall include provisions for insurance of such bridges or causeways against such hazards as the board may deem proper and necessary, and shall fix the terms and conditions for calling said mortgage and revenue bonds for prepayment before their maturities.

SOURCES: Codes, 1930, § 6918; 1942, § 8499; Laws, 1924, ch. 319; Laws, 1928, ch. 18; Laws, 1954, ch. 304.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations § 385.

§ 65-33-11. Causeway or bridge to island.

In event any such bonds be authorized by said election for the purpose of building or constructing any causeway or bridge to any island or islands, then and in that event, and before any of said bonds shall be sold or delivered, the said board shall take necessary steps to acquire title to all of the land on such island or islands, susceptible of private ownership, not belonging to the United States government or the State of Mississippi (exclusive of any historic fort or fortress belonging to a patriotic association with not exceeding five acres of land surrounding the same); or for binding option or other enforceable legal right to acquire the same at a price satisfactory to the said board. However, no land shall be purchased from any private owner who has acquired title to said land during the last 12 months at a price in excess of the cost to the person acquiring same except by condemnation in a court at law.

After the bond election has carried and after options have been obtained and other provisions enforceable at law satisfactory to said board of supervisors have been made for the acquisition of the land as hereinabove provided, it shall be the duty of the board of supervisors to employ a suitable engineer or engineers to make final plans, specifications, and estimates of cost of construction of the additional and supplementary protection for public roads and highways and the building and construction of any causeways, bridges, or other projects authorized by Sections 65-33-1 through 65-33-15. Upon adoption of such plans and specifications and approval thereof by such board, or upon such adoption and approval of any revision thereof which may be made from time to time, said board of supervisors may proceed to sell and deliver said bonds, or so much thereof as may be necessary, and proceed to enter into necessary contracts to the lowest and best bidder, after advertising therefor in the manner by statute provided, and do all other things necessary toward the accomplishment of the work contemplated by such plans and specifications and to acquire in the name of such county such property or rights in property as may be necessary for the construction and execution of such plans and specifications and in compliance with the provisions of said sections relative to the acquisition of title to land on any island or islands. Said board of supervisors shall have the right to acquire by purchase, gift, or eminent domain any land or lands deemed necessary for roads, roadways, parks, recreation projects, seashore parks, or other public grounds approved by such board; no lands so acquired by eminent domain by said board for such public purposes shall be sold. Other lands on such island or islands so acquired by such board may be subdivided into lots, blocks, and building sites and sold, either at public auction, or prices may be placed upon individual lots and placed on sale to the public at such prices and under such terms and conditions as may be fixed by said board.

SOURCES: Codes, 1930, § 6918; 1942, § 8499; Laws, 1924, ch. 319; Laws, 1928, ch. 18; Laws, 1954, ch. 304.

JUDICIAL DECISIONS

1. In general.

The ultimate purpose for the construction and maintenance of a seawall is the protection of the public roads and bridges in the counties bordering upon the Gulf of Mexico or the Mississippi Sound from damage and destruction from waters, high winds and storms of the gulf, so that the ultimate object of the seawall fund and the county road and bridge fund is the same, which is the construction, preservation, protection and maintenance of the road and bridges of the county. Darby v. State, 232 Miss. 639, 100 So. 2d 125 (1958).

Law authorizing county to construct sea wall did not impliedly repeal law requiring county to pay one-half of ad valorem road taxes to municipality. Board of Supvrs. v. City of Bay St. Louis, 157 Miss. 459, 128 So. 331 (1930).

Road protection commission and board of supervisors may, from funds voted, construct protection wall with protecting apron back thereof, which may be used as highway; board of supervisors constructing road along the beach or shore need not adhere to old road's right of way; this statute does not violate constitution giving boards of supervisors jurisdiction over road. Ladner v. Road Protection Comm'n, 150 Miss. 416, 116 So. 602 (1928).

Changes, pending advertisement for bids, in plans and specifications for sea wall affecting storm hazard and liquidated damages, were material, requiring new advertisement. Board of Supvrs. v. Cooper, 147 Miss. 57, 112 So. 682 (1927).

§ 65-33-13. Payment of bonds and maintenance costs.

It shall be the duty of such board to exercise a continuing supervision over all public lands, works, and road protection. All bonds issued under the provisions of Section 65-33-7 and all obligations and expenses necessarily incurred in connection there with shall be paid out of the funds made available for road protection purposes under this chapter.

Any attorneys' fees paid in connection with or in consideration of the issuance of any bonds under the terms of Sections 65-33-1 through 65-33-15, shall not exceed one half of one per cent of (½ of 1%) the total amount of each bond issue.

The cost of the maintenance of any such causeway or causeways, bridge or bridges, road and roads shall be defrayed out of funds provided under Section 65-33-47, or general county fund, or from tolls or revenues derived from any bridge or bridges, causeway or causeways, or facilities provided for herein. Said county shall insure the causeway or causeways, bridge or bridges, against such perils as the board may deem proper, such insurance to be written by an insurance company or companies authorized to do business in the State of Mississippi, and the premiums therefor shall be payable out of funds provided under this chapter.

SOURCES: Codes, 1930, § 6918; 1942, § 8499; Laws, 1924, ch. 319; Laws, 1928, ch. 18; Laws, 1954, ch. 304.

JUDICIAL DECISIONS

1. In general.

The ultimate purpose for the construction and maintenance of a seawall is the protection of the public roads and bridges in the counties bordering upon the Gulf of Mexico or the Mississippi Sound from damage and destruction from waters, high winds and storms of the gulf, so that the ultimate object of the seawall fund and the county road and bridge fund is the same, which is the construction, preservation, protection and maintenance of the road and bridges of the county. Darby v. State, 232 Miss. 639, 100 So. 2d 125 (1958).

§ 65-33-15. Supplemental powers.

Except as herein to the contrary provided, such counties, acting by and through their respective boards of supervisors in the performance of the powers and duties hereunder granted and provided, shall have and may exercise all powers and rights, including but not limited to the right of eminent domain heretofore granted by and under this chapter.

The provisions of Sections 65-33-1 through 65-33-15 are additional and supplemental to all other powers heretofore or hereafter granted to counties, and no county shall be deemed to be required to issue bonds under the provisions hereof. Unless and until a county shall have issued bonds under the provisions hereof, such county shall not be obligated by any of the provisions of said sections, and may avail itself of any law now or hereafter enacted and which may contain other and different provisions concerning the application of the revenues herein referred to.

SOURCES: Codes, 1390, § 6918; 1942, § 8499; Laws, 1924, ch. 319; Laws, 1928, ch. 18; Laws, 1954, ch. 304.

Cross References — Eminent domain powers, see § 65-33-23.

JUDICIAL DECISIONS

1. In general.

The ultimate purpose for the construction and maintenance of a seawall is the protection of the public roads and bridges in the counties bordering upon the Gulf of Mexico or the Mississippi Sound from damage and destruction from waters, high winds and storms of the gulf, so that the ultimate object of the seawall fund and the county road and bridge fund is the same, which is the construction, preservation, protection and maintenance of the road and bridges of the county. Darby v. State, 232 Miss. 639, 100 So. 2d 125 (1958).

Road protection commission and board of supervisors may, from funds voted, construct protection wall with protecting apron back thereof, which may be used as highway; board of supervisors constructing road along the beach or shore need not adhere to old road's right of way; this statute does not violate constitution giving boards of supervisors jurisdiction over road. Ladner v. Road Protection Comm'n, 150 Miss. 416, 116 So. 602 (1928).

§ 65-33-17. Federal aid; bonds authorized to match.

The board of supervisors of any county in the State of Mississippi bordering on the Mississippi Sound or Gulf of Mexico, having an assessed valuation of less than five million ($5,000,000.00) dollars according to the last completed assessment, and maintaining a seawall or road protection structure under this chapter, is hereby authorized, in its discretion, and subject to complying with the provisions of Sections 65-33-17 through 65-33-21, to borrow funds not to exceed two hundred thousand ($200,000.00) dollars at a rate of interest not exceeding six (6%) per cent per annum, in addition to such sums as may have heretofore been borrowed, for the purpose of constructing, repairing and maintaining such seawall or road protection structure and/or the public roads of such county, and in its discretion, to expend such funds or any part thereof in conjunction with contributions and allotments of funds, materials or labor for the works progress administration or other governmental department for the aforesaid improvements, or any of them.

SOURCES: Codes, 1942, § 8500; Laws, 1940, ch. 258.

§ 65-33-19. Federal aid; notice; election.

The board of supervisors of any such county may, in its discretion, issue and sell the bonds of such county in an amount not exceeding two hundred thousand ($200,000.00) dollars to provide funds for the purposes enumerated in Section 65-33-17. However, such bonds shall not be issued until notice of intention to issue and sell the same shall have been made by publishing such notice in two weekly issues of some newspaper having a general circulation in the county. If, within fifteen days after the first publication of such notice twenty-five per cent of the qualified electors of the county petition the board of supervisors for an election to determine whether or not such bonds shall be issued, an election shall be ordered by said board of supervisors in which all of the qualified electors of the county shall be eligible to participate. If at such election a majority of those voting vote in favor of the issuance of such bonds the same shall be issued as provided by statute. In event a majority of the qualified electors voting vote against the issuance of such bonds the same shall not be issued and no further effort shall be made to issue bonds under Sections 65-33-17 through 65-33-21 by such board for a period of six months after such election. If no such petition be filed with the clerk of such board of supervisors within fifteen days after the first publication of such notice, the board of supervisors shall proceed forthwith to issue and sell such bonds without an election and without further notice.

SOURCES: Codes, 1942, § 8501; Laws, 1940, ch. 258.

§ 65-33-21. Federal aid; terms of bonds; payment; debt limit not applicable.

Bonds issued under the provisions of Sections 65-33-17 through 65-33-21 shall be full faith and credit obligations of the county for which the same are issued, shall mature so as to be paid within twenty years from their date of issuance, and shall be paid out of the funds collected under this chapter. All bonds, notes and certificates of indebtedness heretofore issued by such county for seawall and road protection purposes maturing each year and the interest thereon however, shall be first provided for and paid out of said funds. The bonds authorized to be issued under Sections 65-33-17 through 65-33-21 shall not be subject to other limitations, restrictions or provisions of the general laws or laws which may be enacted at the Regular 1940 Session of the Mississippi Legislature governing the borrowing of money, amounts of indebtedness, budget and election, and shall be payable, both as to principal and interest, from the same sources of revenue and taxes made available for the payment of road protection bonds under the provisions of this chapter.

SOURCES: Codes, 1942, § 8502; Laws, 1940, ch. 258.

§ 65-33-23. Boards of supervisors may exercise right of eminent domain.

For the purpose of this chapter the several boards of supervisors are hereby clothed with the power and authority, and it is made their duty, to exercise the right of eminent domain in order to procure the right of way for such roads, streets, highways, sea walls, breakwaters, bulkheads, sloping beach, and such other devices as may be adopted for the protection of such highways. They shall have the power to pass all necessary ordinances for the preservation and protection of any such road, sea wall, sloping beach, or other device constructed hereunder, and the violation of such ordinances shall constitute, and be punished as, a misdemeanor.

SOURCES: Codes, 1930, § 6919; 1942, § 8503; Laws, 1924, ch. 319.

Cross References — Eminent domain generally, see §§ 11-27-1 et seq.
Eminent domain powers of State Transportation Commission, see § 65-1-47.
Damages for land taken by eminent domain, see § 65-33-31.

JUDICIAL DECISIONS

1. In general.

Under Chapter 319, Laws of 1924, the board of supervisors of Harrison County was clothed with a power of eminent domain to condemn the right of way for the construction of a sea wall, including the protection of the road and sea wall by a sloping beach, and the landowner had waived any damages arising from the fact that the county had exceeded its previously acquired right in making improvements in 1951. Harrison County v. Guice, 244 Miss. 95, 140 So. 2d 838 (1962).

Harrison County acquired only an easement to replace, repair, and maintain the sea wall and the road, and the sea wall protection structure in the form of a sand fill, and reasonable rights of ingress and egress over the landowner's lands for the purpose of replacing, repairing and maintaining said structures. Harrison County v. Guice, 244 Miss. 95, 140 So. 2d 838 (1962).

Statute empowered board of supervisors to construct roads and exercise power of eminent domain to procure right of way for road and protection walls. Ladner v. Road Protection Comm'n, 150 Miss. 416, 116 So. 602 (1928).

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 1 et seq.

§ 65-33-25. Machinery and engineer.

The several boards of supervisors shall have the power and authority, for the purpose of constructing, maintaining, and repairing any such sea wall, sloping beach, or other protection, to purchase, maintain, and operate one or more dredges, together with all necessary machinery, tools, and implements for the operation thereof, to employ necessary engineers and laborers to operate the same, and to insure such sea wall, sloping beach, or other protection against loss by hurricanes, tide water, cyclone, tornado, and risks of all kinds; and the board may pay for the same out of any funds available collected and paid into the treasury by virtue of this chapter.

SOURCES: Codes, 1930, § 6920; 1942, § 8504; Laws, 1924, ch. 319; Laws, 1936, 2d Ex. Sess. ch. 20.

§ 65-33-27. Road protection commission.

Whenever it may be necessary to protect any highway hereunder, the board of supervisors by an order on its minutes shall so declare and shall certify the same to the governor of the state, who shall thereupon appoint five suitable freeholders of the county to constitute, and be known as, the road protection commission of such county, and who shall decide and recommend the kind and character of protection necessary, to be approved by the board of supervisors. When such commission shall have been appointed and shall have organized, said commission shall select and employ a suitable engineer, to be approved by the board of supervisors, to make a survey, plans, specifications, and estimates of costs of construction under the direction of the said road protection commission, to be approved by the board of supervisors. When so approved, the board of supervisors may proceed to issue bonds of the county therefor, and the road protection commission shall thereupon advertise for bids and let a contract or contracts therefor. Such contracts shall be submitted to and approved by the board of supervisors, all contracts under this section to be executed by the board of supervisors. The road protection commission and the board of supervisors are authorized and empowered to do all things and to make all expenditures necessary to carry out the purposes hereof.

SOURCES: Codes, 1930, § 6921; 1942, § 8505; Laws, 1924, ch. 319.

Cross References — Organization and tenure of protection commission, see § 65-33-29.

§ 65-33-29. Organization and tenure of protection commission.

The road protection commission shall organize by the election of a chairman, and they shall serve without compensation except actual expenses, which shall be allowed by the board of supervisors and paid out of the general county fund or the road fund, as the board of supervisors may elect. Three members shall constitute a quorum to transact business, and all meetings shall be held at the courthouse. Their tenure of office shall be four years or until the work for which bonds are issued is completed and accepted, if less than four years. The clerk of the board of supervisors shall be ex-officio clerk of the road protection commission, shall attend all meetings, and shall preserve a record of all proceedings of said commission.

SOURCES: Codes, 1930, § 6922; 1942, § 8506; Laws, 1924, ch. 319.

§ 65-33-31. Damages for land taken.

Whenever it shall become necessary to construct, widen, or protect any highway under the provisions hereof, the road protection commission shall make publication for thirty days in some newspaper published in the county wherein such improvements are made, setting forth the commencement and termination, with a general outline of the nature and extent thereof. When any owner of land or other person shall claim compensation for land taken for such purpose, or for damage sustained by the construction, widening, improvement, or protection of such road or highway, he shall petition the board of supervisors in writing within thirty days after the expiration of the time provided for such publication, setting forth the nature and character of the damages claimed. Thereupon the board shall, on five days' notice to petitioner, go on the premises and assess the damages sustained by him. The finding of the board shall be in writing, signed by the members agreeing to it, and must be entered on the minutes at the next meeting; but if the damages sustained and claimed be less than the cost of assessing, the board may allow the same without inquiry.

SOURCES: Codes, 1930, § 6923; 1942, § 8507; Laws, 1924, ch. 319.

Cross References — Eminent domain powers of boards of supervisors, see § 65-33-23.

Review by circuit court on appeal, see § 65-33-33.

JUDICIAL DECISIONS

1. Validity of statute.
2. Publication of notice.
3. Statute of limitations.
4. Waiver of right to compensation.

1. Validity of statute.

The statute authorizing county supervisors to take land for a sea wall and requiring landowners to claim compensation within a specified time does not violate the Constitution forbidding the taking of property without compensation first being made. Henritzy v. Harrison County, 180 Miss. 675, 178 So. 322 (1938).

The statute requiring owners of land taken for a sea wall to claim compensation within a specified time is not unconstitutional as depriving them of a jury trial, since the statute provides for a review by the circuit court and a jury therein to assess damages, subject to the giving of a cost bond not exceeding $200.00. Henritzy v. Harrison County, 180 Miss. 675, 178 So. 322 (1938).

2. Publication of notice.

The statute providing for the taking of land for a sea wall, etc., and publication of notice in a newspaper for "thirty days" does not contemplate daily publication, and publication on four days with intervals of one week between each publication is sufficient. Henritzy v. Harrison County, 180 Miss. 675, 178 So. 322 (1938).

3. Statute of limitations.

A county taking a fifty-foot right of way about twenty-six miles long and constructing a concrete sea wall on the south fifteen feet thereof and an earthen fill on the remaining thirty-five feet acquired title by adverse possession under the ten-year statute. Henritzy v. Harrison County, 180 Miss. 675, 178 So. 322 (1938).

A claim for damages for the taking of land for a sea wall more than ten years previously is barred by limitations, as against the then owner and those claiming under him. Henritzy v. Harrison County, 180 Miss. 675, 178 So. 322 (1938).

4. Waiver of right to compensation. The owner of land taken for a sea wall waives his right to damages by failing to claim compensation within the thirty days limited by the statute after the last published notice. Henritzy v. Harrison County, 180 Miss. 675, 178 So. 322 (1938).

§ 65-33-33. Review by circuit court on appeal.

All proceedings of the board of supervisors and the road protection commission in widening, improving, or protecting any such highway and assessing damages therefor may be reviewed by the circuit court in respect to any matter of law arising on the face of the proceeding. On the question of damages, the case may be tried anew and the damages may be assessed by a jury if the owner of the land so desires. The board of supervisors shall grant appeals for that purpose when prayed for, on appellant giving bond for cost in such penalty as the board may require, not exceeding $200.00, payable to the county.

SOURCES: Codes, 1930, § 6924; 1942, § 8508; Laws, 1924, ch. 319.

JUDICIAL DECISIONS

1. In general. The statute requiring owners of land taken for a sea wall to claim compensation within a specified time is not unconstitutional as depriving them of a jury trial, since the statute provides for a review by the circuit court and a jury therein to assess damages, subject to the giving of a cost bond not exceeding $200.00. Henritzy v. Harrison County, 180 Miss. 675, 178 So. 322 (1938).

§ 65-33-35. Preliminary expenses to be paid out of general fund.

All expenses incurred prior to the issuance and sale of bonds as hereinabove provided may be paid out of the general county fund or such other fund as the board of supervisors may select. The fund out of which such expense is paid shall be reimbursed out of the proceeds of such bond issue when the bonds are issued and sold.

SOURCES: Codes, 1930, § 6925; 1942, § 8509; Laws, 1924, ch. 319.

§ 65-33-37. Pro rata share of expenses.

The board of supervisors may agree with any municipality or sea wall district that the county be assessed for its pro rata share of the construction and maintenance of sea walls. The assessment shall be paid each year by the county for whatever period agreed upon by the board of supervisors and the sea wall district or municipality.

Where any municipality has issued bonds and constructed road protection, such as is contemplated by this chapter, which protection is, or shall become, a part of the general scheme to protect roads, streets, or highways from tidewater in said county, the board of supervisors may use the funds derived under Sections 65-33-47 and 65-33-49 for the payment and retirement of said bonds, or for such portion thereof as the board may deem equitable and just, and to refund upon an equitable and just basis to municipal property owners who have paid direct special improvement taxes to municipalities for sea wall or road protection, which sea wall or road protection is or shall become a part of the general road system of the county; and said payments may be made in yearly installments.

SOURCES: Codes, Hemingway's 1917, § 7467; 1930, § 6926; 1942, § 8510; Laws, 1916, ch. 144; Laws, 1928, ch. 19(2).

§ 65-33-39. County may borrow money to pay bonds.

When any county of this state has adopted or will adopt any sea wall or part of a sea wall constructed prior to October 31, 1931, by a municipality as a part of its general system as provided by Section 65-33-37, and where said county has been unable to take care of or pay the maturing bonds and interest of said municipality from the gasoline tax as provided by said section, the said county may borrow funds necessary to pay outstanding maturing bonds and interest of the municipality issued for said sea wall, or walls. The said county may borrow said funds either upon certificates of indebtedness, notes, or bonds, as in its judgment it may see fit. Said obligation or bonds shall not be for a period longer than ten years and at a rate of interest not exceeding six per cent. Said obligations or bonds shall not be considered as included in any limitation now fixed by law upon the indebtedness of any county, and said obligations or bonds may be issued without notice and without an election on the question of the issuance of same. The said obligation or bonds issued hereunder shall be general obligations of the county and payable out of the gasoline tax when available, as provided in the cited section, and the general sea wall road protection laws. In the event of the failure of sufficient funds from the said gasoline tax, the county shall levy a special tax to pay said bonds. The board of supervisors issuing bonds hereunder may provide that the first obligations or bonds mature as long as three years from the date of their issuance, but all interest shall be paid semiannually. In the event of the failure to collect sufficient gasoline tax to pay said bonds or obligations authorized hereunder, the board of supervisors of the county are authorized to levy ad valorem taxes to pay same as other sea wall or road protection bonds.

SOURCES: Codes, 1942, § 8511; Laws, 1931, ch. 35.

§ 65-33-41. Special tax may be levied.

The board of supervisors of any county may, in its discretion, levy a special tax for sea wall purposes, not to exceed five mills, may issue bonds therefor, or may pay for its pro rata share out of the funds of the county.

SOURCES: Codes, Hemingway's 1917, § 7466; 1930, § 6927; 1942, § 8512; Laws, 1916, ch. 144.

Cross References — General powers of boards of supervisors, see § 19-3-41.

ATTORNEY GENERAL OPINIONS

Surplus monies remaining from the funds used by the county to liquidate the bond indenture from the seawall fund should not be transferred to the general fund to complete a public marina, but should be replaced in the seawall fund when the purposes for which the seawall fund was created, constructing and maintaining seawall structures, had not been fully carried out. Gex, January 16, 1998, A.G. Op. #97-0815

§ 65-33-43. Privilege tax on automobile driver may be levied and collected.

In all counties where the bonds of the county are or have been issued under this chapter or any previous statutes of a similar character, the boards of supervisors may levy and collect a privilege tax on each person resident in such county driving an automobile or other motor vehicle on any of the public streets or highways of the county, not exceeding two dollars. The amount of said tax may be varied in case more than one member of a family pays such tax, the funds arising therefrom to be applied in the same manner as funds arising under Sections 65-33-45 through 65-33-49 are applied. The boards of supervisors shall have the power, and it shall be the duty of such boards, to levy annually on all the taxable property in such counties, and to collect a special tax sufficient to cover any deficiency, if such deficiency occur, in the amount necessary to meet annually such interest and sinking fund.

SOURCES: Codes, 1930, § 6928; 1942, § 8513; Laws, 1924, ch. 319.

Cross References — Motor vehicle taxes generally, see §§ 27-19-1 et seq.
Use of motor vehicle license taxes for funding, see § 65-33-45.

JUDICIAL DECISIONS

1. In general.

An order of the board of supervisors of a tidewater county directing the clerk to withdraw from the seawall fund and to deposit in the county road and bridge fund a specified sum, representing proceeds of collections of automobile privilege license taxes and from truck and bus privilege taxes, was proper, where the county had, and would have, ample available resources for the payment of all maturing bonds and for the upkeep and maintenance of all foreseeable seawall functions after the transfer. Darby v. State, 232 Miss. 639, 100 So. 2d 125 (1958).

The ultimate purpose for the construction and maintenance of the seawall is the protection of the public roads and bridges in the counties bordering upon the Gulf of Mexico or the Mississippi Sound from damage and destruction from waters, high winds and storms of the gulf, so that the ultimate object of the seawall fund and the county road and bridge fund is the same, which is the construction, preservation, protection and maintenance of the road and bridges of the county. Darby v. State, 232 Miss. 639, 100 So. 2d 125 (1958).

Statute would prevail over previous statute (Code 1942, § 5611) permitting counties to apply portion of gasoline tax toward payment of interest and principal on bonds issued in erection of a seawall. Burdeaux v. Cowan, 182 Miss. 621, 181 So. 852 (1938).

Board of supervisors properly ordered thereafter pursuant to law authorized the transfer of net amount of automobile privilege taxes from road protection fund to county road fund where no deficiency was created in road protection fund. Burdeaux v. Cowan, 182 Miss. 621, 181 So. 852 (1938).

ATTORNEY GENERAL OPINIONS

Surplus monies remaining from the funds used by the county to liquidate the bond indenture from the seawall fund should not be transferred to the general fund to complete a public marina, but should be replaced in the seawall fund when the purposes for which the seawall fund was created, constructing and maintaining seawall structures, had not been fully carried out. Gex, January 16, 1998, A.G. Op. #97-0815

§ 65-33-45. Motor vehicle license taxes used.

Where any county issues or has heretofore issued its bonds under this chapter or any previous statutes of a similar character for protection of any highway, there shall be paid into the treasury of such county fifty per cent (50%) of any license taxes which would otherwise be paid into the state highway fund collected by the state in such county on motor vehicles or drivers thereof, and fifty per cent (50%) of any excise taxes levied and collected in such county by the state on gasoline which would otherwise be paid into the state treasury to the credit of the state highway fund, to meet the interest and annual sinking fund on such bonds. Such funds shall be applied toward the liquidation of the interest and sinking fund accruing annually on such bonds, the other fifty per cent (50%) to go into the state treasury to the credit of the state highway commission, and, if such taxes in any year should be insufficient to cover such interest and sinking fund, the deficiency therein shall be supplied out of any other such funds collected by the state in such county and allotted by law to such county for road purposes. Nothing herein shall be construed as a guarantee on the part of the state to pay the interest or principal on any bonds issued hereunder.

This section shall not apply to the tax collected from registration fees and the sale of automobile tags.

Of the surplus of such funds so paid into the treasuries of Harrison and Jackson Counties, the portions thereof hereinafter designated, to the extent necessary under the limitations hereinafter stated, shall be paid by Harrison and Jackson Counties to the state highway commission and shall be applied by said commission on the annual payments of principal of and interest on bonds to be issued by the state bond commission in an amount not to exceed seven million dollars ($7,000,000.00), for the construction, by the state highway commission, of a four-lane highway bridge across the Bay of Biloxi, to form a part of United States Highway No. 90, to the extent that two thirds of the total cost of principal and interest on such bonds shall be paid out of such surplus funds of Harrison County, and one third out of such surplus funds of Jackson County.

For the purpose of this section, such "surplus funds of Harrison County" shall be construed to be the amount paid to Harrison County under this section not pledged to the payment of principal and interest of bonds issued under this chapter, or any previous statutes of a similar character for the protection of any highway, and presently outstanding. "Surplus funds of Jackson County" shall be construed to be the amount paid to Jackson County under this section not pledged to the payment of principal and interest of bonds issued under this chapter, or any previous statutes of a similar character for the protection of any highway, and presently outstanding, and remaining after payment of principal and interest on bonds now issued or authorized by an election by Jackson County in connection with its Bayou Casotte development project under the authority of Senate Bill No. 1265, Extraordinary Session of 1954, as amended by Senate Bill No. 1624 enacted at the Regular 1958 Session of the Mississippi Legislature.

Annually, to the extent necessary to meet the annual requirements for the payment of principal of and interest on said bonds, Harrison County shall pay to the state highway commission not exceeding two thirds of its aforesaid annual surplus, as hereinabove defined; and, to the extent necessary and available, Jackson County shall annually pay to the state highway commission from such surplus funds an amount not exceeding one third of the annual requirements for bonds issued by the state bond commission, and such amounts as may be necessary to satisfy any deficiency in preceding annual payments required to be made under the provisions hereof.

Surplus funds remaining to both Harrison and Jackson Counties, after making the payments above directed, may be pledged, used, and expended in whole or part for the payment of the principal of and interest on bonds issued and to be issued under the authority of Sections 59-9-1 through 59-9-83; however, unless and until so pledged all or any part of such surplus now or hereafter accumulated may be transferred by the board of supervisors to a fund designated the county port fund and shall be subject to expenditure by the county port authority or county development commission for the purposes and objects authorized by said sections. All expenditures made by the county port authority or county development commission shall be audited by the county auditor, who shall annually report such expenditures to the board of supervisors.

SOURCES: Codes, 1930, § 6929; 1942, § 8514; Laws, 1926, ch. 234; Laws, 1956, ch. 328; Laws, 1958, ch. 377; Laws, 1960, ch. 211, § 3.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

Cross References — Apportionment of gasoline taxes, see § 27-5-101.

Relationship of this section with provisions governing the allocation of revenues from excise taxes on gasoline, diesel fuel, kerosene or oil, see § 27-5-101(c).

Distribution of motor vehicle tax collections, see § 27-19-159.

Exemption of funds collected under this section from provisions governing state agencies, see § 27-104-27.

JUDICIAL DECISIONS

1. In general.

An order of the board of supervisors of a tidewater county directing the clerk to withdraw from the seawall fund and to deposit in the county road and bridge fund, a specified sum, representing proceeds of collections of automobile privilege license taxes and from truck and bus privilege taxes, was proper, where the county had, and would have, ample available resources for the payment of all maturing bonds and for the upkeep and maintenance of all foreseeable seawall functions after the transfer. Darby v. State, 232 Miss. 639, 100 So. 2d 125 (1958).

The ultimate purpose for the construction and maintenance of the seawall is the protection of the public roads and bridges in the counties bordering upon the Gulf of Mexico or the Mississippi Sound from damage and destruction from waters, high winds and storms of the gulf, so that the ultimate object of the seawall fund and the county road and bridge fund is the same, which is the construction, preservation, protection and maintenance of the road and bridges of the county. Darby v. State, 232 Miss. 639, 100 So. 2d 125 (1958).

Under Act providing for payment into treasury of coast county of 50 per cent of any excise taxes levied and collected in such county on gasoline which would otherwise be paid into State Treasury to credit of state highway fund, distribution of gasoline tax must have been made to county where tax was levied and collected, and not to county where gasoline was sold or shipped for sale therein. Gully v. Harrison County, 173 Miss. 402, 162 So. 166 (1935).

Payment of sea wall taxes levied by county board of supervisors was not covered by licensed gasoline distributor's bond, conditioned that licensee should fully comply with laws pertaining to distributors and wholesale dealers of gasoline and pay all "excise taxes and penalties." United States Fid. & Guar. Co. v. Rice, 169 Miss. 75, 152 So. 832 (1934).

ATTORNEY GENERAL OPINIONS

Alleged violations of the countywide system of road administration, codified at Miss. Code Ann. §§ 19-2-1 et seq., should be filed with the State Auditor, who has the duty to enforce the provisions of the county unit system by issuing certificates of noncompliance. Brooks, March 2, 2007, A.G. Op. #07-00093, 2007 Miss. AG LEXIS 87.

§ 65-33-47. Sea wall tax authorized.

Where any county issues or has heretofore issued the bonds of the county under this chapter or any previous statutes of a similar character, an excise tax of not exceeding three cents per gallon, in addition to any such tax levied and collected by the state in such counties, for the distribution of gasoline, may be collected by such counties. Such collection shall be made at the time and in the manner provided for the collection of the gasoline tax generally and shall be remitted by the auditor of the county at the same time as is remitted the amount due to the county out of the regular gasoline tax. The additional funds so derived shall be applied first towards any deficiency in the amount collected by the state and paid to such county which may be necessary for the liquidation of the interest accruing on, and to provide a sinking fund for the retirement of, such bonds issued by municipalities for road protection and refunds as hereinbefore provided. Any overplus or parts thereof may be used in the construction of road protection pavements or hard surfaced aprons to any existing road protection heretofore constructed, or to increase the strength or stability of any such existing road protection, or in the construction of additional road protection, or in the repair and maintenance of existing road protection, or road protection hereafter constructed, as the board of supervisors may elect. The taxes hereinabove provided for, upon the faith of which bonds may be issued, shall be levied and collected annually in an amount estimated to be equal to the interest and sinking fund on said bonds and shall not, until said bonds with interest thereon shall have been paid, be lowered beyond that amount which is estimated to be necessary to produce annually a sum sufficient to pay interest and provide a sinking fund, requirements on such bond issue or issues, provided such tax shall not exceed such reasonable sum as may be legally levied and collected; said tax and sinking fund may be used by the board of supervisors to retire bonds issued by municipalities for road protection purposes and refunds as hereinbefore provided.

Any such county may exempt from the payment of the additional tax levied on the distribution of gasoline, any and all gasoline which may be consumed by boats engaged in fishing, by boats in commerce between the states or in necessary duties as instrumentalities of the United States government, gasoline purchased for agricultural purposes or domestic purposes, as was defined by Section 12, Chapter 264, Laws of 1946. Such exemption shall be contained in the order of such board of supervisors levying the tax on such gasoline and, when such exemption is granted in such order, then no additional tax shall be required from the person distributing gasoline direct to consumers using same in operating boats for fishing, in commerce, or as instrumentalities of the United States government. When a distributor is entitled to the said exemption, he shall, when reporting and remitting to the auditor for the regular gasoline tax, report also in detail with respect to the distributions exempted from said additional tax in the same manner as is required in the section on exemptions and allowances in the chapter on gasoline taxes.

SOURCES: Codes, 1930, § 6930; 1942, § 8515; Laws, 1928, ch. 19; Laws, 1948, ch. 211, § 1; Laws, 1952, chs. 212, 213; Laws, 1954, ch. 328, eff 60 days after passage (approved April 5, 1954).

Editor's Note — Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor," and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer.

Section 27-104-6 provides that whenever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration".

Cross References — Relationship of this section with provisions governing the allocation of revenues from excise taxes on gasoline, diesel fuel, kerosene or oil, see § 27-5-101(c).

Exemption of funds collected under this section from provisions governing state agencies, see § 27-104-27.

ATTORNEY GENERAL OPINIONS

Surplus monies remaining from the funds used by the county to liquidate the bond indenture from the seawall fund should not be transferred to the general fund to complete a public marina, but should be replaced in the seawall fund when the purposes for which the seawall fund was created, constructing and maintaining seawall structures, had not been fully carried out. Gex, January 16, 1998, A.G. Op. #97-0815

§ 65-33-49. Extension, construction, and repair.

In those counties operating under this chapter, the board of supervisors may borrow funds not in excess of three hundred fifty thousand dollars ($350,000.00) at a rate of interest not exceeding six per cent. per annum, in addition to such sums as may have heretofore been borrowed, for the purpose of extending, constructing, repairing, or maintaining the road protection of the county or to protect by sea wall or road protection any street, highway, road, or avenue connected therewith extending to or along the side of a harbor or to a boat landing or dock, which, in the judgment of the board of supervisors of such county, should be so protected either for an existing or a contemplated road, street, highway, or avenue. Such board of supervisors shall have authority to acquire by purchase or otherwise a dredge boat and use and operate the same for the purpose of pumping a sand beach adjacent to such sea wall or road protection structure, and to pay for same out of any funds provided under this section or any funds collected under Section 65-33-47. The funds or amount borrowed for the purpose provided for in this section shall be paid within a period of ten years from the date borrowed, and shall be paid out of the funds collected under this chapter. All bonds, notes, or certificates of indebtedness maturing each year and the interest thereon, however, shall be first provided for and paid out of said funds. The loans authorized herein shall not be subject to other limitations, restrictions, or provisions of the general laws governing the borrowing of money, amounts of indebtedness, budget, and election; and said loans may be made by the board of supervisors of such county either by issuance of county bonds, notes, or certificates of indebtedness which shall be full faith and credit obligations of the county issuing the same and shall be payable, both as to principal and interest, from the same sources of revenue and taxes made available for the payment of road protection bonds under the provisions of this chapter. The money herein authorized to be borrowed may be borrowed by such board of supervisors from any person, firm, corporation, governmental lending agency, or from any sinking funds of such county, provided that if the money be borrowed from any sinking fund, it shall be repaid before the sinking fund from which it is borrowed, when supplemented by funds paid into same, is needed. Before the board of supervisors shall borrow money under this section, it shall spread on its minutes an order reciting such intention and shall thereafter publish a copy of such order, in two weekly issues of some newspaper having a general circulation in the county. If, within fifteen days after the first publication of a copy of such order, twenty-five per cent of the qualified electors of the county petition the board of supervisors for an election to determine whether or not the adoption of such order should be annulled, such election shall be ordered by such board of supervisors. If at such election a majority of those voting vote in favor of the adoption of such order, the same shall be valid and effective; but if a majority shall vote against such order, it shall be annulled and shall be ineffective, and no further effort shall be made to borrow funds under this section by such board for a period of six months from the date of such election. If no such petition be presented within fifteen days after the first publication of a copy of such order, such order shall be valid and effective. The amount authorized to be borrowed under this section may be borrowed at any time and in any amount, but the total borrowed shall not exceed three hundred fifty thousand dollars ($350,000.00) in addition to such sums as may heretofore have been borrowed for the purposes herein enumerated, or either of them.

SOURCES: Codes, 1930, § 6931; 1942, § 8516; Laws, 1930, ch. 87; Laws, 1936, ch. 274; Laws, 1938, ch. 312.

Cross References — Relationship of this section with provisions governing the allocation of revenues from excise taxes on gasoline, diesel fuel, kerosene or oil, see § 27-5-101(c).

Authority of certain counties to borrow money, see §§ 65-33-51 through 65-33-55.

JUDICIAL DECISIONS

1. In general.

Where a board of supervisors under statutory authority formally borrowed a sum of money from certain sinking funds and duly issued its notes payable to the county for the benefit of such funds in the amount of the sum borrowed, and thereafter pursuant to law authorized the issuance of bonds to take up the notes due the sinking fund, decree validating the bond issue was affirmed. Meridian Taxicab Co. v. Ward, 184 Miss. 499, 186 So. 636, 120 A.L.R. 1346 (1939).

§ 65-33-51. Authority for certain counties to borrow money and to receive federal aid.

(1) In any county maintaining a sea wall or road protection structure under the provisions of this chapter, the board of supervisors may borrow funds not in excess of one million, five hundred thousand dollars ($1,500,000.00), at a rate of interest not exceeding four per cent per annum, in addition to such sums as have heretofore been borrowed for the purpose of constructing, repairing, strengthening, or maintaining the road protection structure or sea wall of the county. Such board of supervisors shall have the authority to acquire by purchase or otherwise a dredge boat and to use and operate it for the purpose of pumping a sand beach adjacent to such sea wall or road protection structure or for the maintenance thereof, and to pay for same out of any funds provided under this section. The funds or amount borrowed for the purposes provided for in this section shall be repaid within a period of fifteen years from the date borrowed, and shall be paid out of the funds collected under this chapter. All bonds, notes, or certificates of indebtedness maturing

each year and the interest thereon, however, shall be first provided for and paid out of said funds. The loans authorized herein shall not be subject to other limitations, restrictions, or provisions of the general laws governing the borrowing of money, amounts of indebtedness, budget, and election; and said loans may be made by the board of supervisors of such county either by issuance of county bonds, notes, or certificates of indebtedness which shall be full faith and credit obligations of the county issuing same and shall be payable, both as to principal and interest, from the same sources of revenue and taxes made available for the payment of road protection bonds under the provisions of this chapter. The money herein authorized to be borrowed by such board of supervisors may be borrowed from any person, firm, corporation, governmental lending agency, or from any sinking funds of such county; if the money be borrowed from any sinking fund, it shall be repaid before the sinking fund from which it is borrowed, when supplemented by funds paid into same, is needed. Before the board of supervisors shall borrow money under this section, it shall spread on its minutes an order reciting such intention, and shall thereafter publish a copy of such order in three weekly issues of some newspaper having a general circulation in the county. If, within fifteen days after the first publication of a copy of such order, fifteen per cent of the qualified electors of the county shall file with such board of supervisors a petition in writing requesting an election on the question of borrowing money in the amount and for the purpose as set forth in such order, then such money shall not be borrowed unless authorized by a majority of the qualified voters of such county voting in an election to be ordered by such board of supervisors for that purpose. Notice of such election shall be given and such election shall be held and conducted as provided by law in connection with elections for the submission of bond issues in such county. If such proposition shall fail to receive such majority vote at such election, then no further proceedings for the borrowing of such money shall be had or taken within a period of six months from and after the date of such election. If, however, no such petition shall be so filed, or if at such election such petition shall be assented to by a majority vote, then such board of supervisors shall be authorized to borrow such money in the amount and for the purpose as set forth in such order as published. The amount authorized to be borrowed under this section may be borrowed at any time and in any amount, but the total borrowed shall not exceed one million, five hundred thousand dollars ($1,500,000.00) in addition to such sums as may heretofore have been borrowed for the purposes herein enumerated, or either of them.

(2) The board of supervisors is hereby given full power and authority to meet and do and grant any request of the United States Beach Erosion Board of the United States Army Engineers by and under Public Law 727, 79th Congress, Chapter 960, 2nd Session, and to assure either or both the following:

(a) Assure maintenance of the sea wall and drainage facilities, and of the beach by artificial replenishment, during the useful life of these works, as may be required to serve their intended purpose;

(b) Provide, at the county's own expense, all necessary land, easements, and rights of way;

(c) To hold and save the United States free from all claims for damages that may arise either before, during, or after prosecution of the work;

(d) To prevent, by ordinance, any water pollution that would endanger the health of the bathers;

(e) To assume perpetual ownership of any beach construction and its administration for public use only, and that the board of supervisors is given full power and authority to do any and all things necessary in and about the repair and reconstruction, or construction or maintenance of the sea wall and sloping beach adjacent thereto; and it is given such power to cooperate with the requirements of the United States government to receive any grant or grants of money from Congress or to contribute any grant or grants to the United States Army Engineers in and about this construction and maintenance and it is further given full power and authority to employ engineers, lawyers, or any other professional or technical help in and about the completion of this project. In the event the county engineer is selected to do any or all of said work, the board of supervisors is hereby authorized to pay and allow him such reasonable fees or salary which, in its opinion, is necessary, just, and commensurate to the work done by him.

It is further given full power and authority to let, by competitive bids, any contract for the repair of said wall, or for the installation and drainage, and for the construction of any additional section of wall, together with any artificial beach adjacent to said wall; or it may, in its discretion, negotiate a contract for any and all construction or any part thereof for the construction, repair, reconstruction, or additions thereto; or it may do any or all of said work under the direction of the county engineer or engineers employed by it and for which purpose it may employ all necessary labor and equipment and purchase necessary materials.

The intent and purpose of this section is to give unto the respective boards of supervisors the full power and authority to carry out all the provisions herein, and to act independently, jointly, or severally with the United States government by and under Public Law 727, 79th Congress.

(3) The provisions of this section shall not apply to any county with an assessed valuation of less than $10,000,000.00.

SOURCES: Codes, 1942, § 8516.3; Laws, 1948, ch. 334, §§ 1-3.

JUDICIAL DECISIONS

1. In general.

Under authority of Code 1942, § 8516.3(1)(e), and as a condition precedent to receipt of federal funds for the repair and reconstruction of a sea wall and the construction of an artificial beach 17 miles in length extending seaward therefrom, the Board of Supervisors of Harrison County entered into a contract with the United States wherein the board agreed to assure perpetual public use of the beach. The Mississippi Supreme Court in Harrison County v. Guice (1962) 244 Miss 95, 140 So. 2d 838, declared that the beach became the property of the abutting owners by artificial accretion, subject only to the county's right of ingress and egress for the purpose of maintaining the sea wall and other structures. Thereafter, following allegations that certain members of the general public were systematically excluded from the beach, the United States brought suit against the county to enforce its contract. On appeal, following dismissal of the action by the District Court, the Court of Appeals reversed, holding that the contract of the United States with Harrison County requiring the maintenance of the beach perpetually for public use was valid and enforceable. United States v. Harrison County, 399 F.2d 485 (5th Cir. 1968), reh'g denied, 414 F.2d 784 (5th Cir. 1969), cert. denied, 397 U.S. 918, 90 S. Ct. 925, 25 L. Ed. 2d 99 (1970).

The provision of § 95 of the Constitution prohibiting the donation of lands belonging to the state to private corporations or individuals (which prohibition applies to the beds of its shores, arms, and inlets) prevented the owners abutting upon a 17-mile artificial beach constructed upon submerged land in Mississippi Sound from acquiring title thereto under the doctrine of "artificial accretion". United States v. Harrison County, 399 F.2d 485 (5th Cir. 1968), reh'g denied, 414 F.2d 784 (5th Cir. 1969), cert. denied, 397 U.S. 918, 90 S. Ct. 925, 25 L. Ed. 2d 99 (1970).

Harrison County acquired only an easement to replace, repair, and maintain the sea wall and the road, and the sea wall protection structure in the form of a sand fill, and reasonable rights of ingress and egress over the landowner's lands for the purpose of replacing, repairing and maintaining said structures. Harrison County v. Guice, 244 Miss. 95, 140 So. 2d 838 (1962).

Under Chapter 319, Laws of 1924, the board of supervisors of Harrison County was clothed with a power of eminent domain to condemn the right of way for the construction of a sea wall, including the protection of the road and sea wall by a sloping beach, and the landowner had waived any damages arising from the fact that the county had exceeded its previously acquired right in making improvements in 1951. Harrison County v. Guice, 244 Miss. 95, 140 So. 2d 838 (1962).

§ 65-33-53. Additional funds.

(1) In any county maintaining a sea wall or road protection structure under the provisions of this chapter, the board of supervisors may borrow funds not in excess of five hundred thousand dollars ($500,000.00) in addition to the one million five hundred thousand dollars ($1,500,000.00) authorized under Section 65-33-51, at the rate of interest not exceeding four per cent per annum, in addition to such sums as have heretofore been borrowed for the purpose of constructing, repairing, strengthening, or maintaining the road protection structure or sea wall of the county, including the raising of the roadbed as recommended and approved by the Mississippi State Highway Commission, and to construct retaining walls for such raised roadbeds and to pump by hydraulic fill, or otherwise, a sand beach adjacent to such retaining wall or sea wall structure. Such board of supervisors shall have the authority to acquire by purchase or otherwise a dredge boat and to use and operate it for the purpose of pumping a sand beach adjacent to such sea wall or road protection structure or for the maintenance thereof; however, said board of supervisors shall not pay for same out of any funds provided under this section. The funds or amount borrowed for the purposes provided in this section shall be repaid within a period of fifteen years from the date borrowed, and shall be paid out of the funds collected under this chapter. All bonds, notes, or certificates of indebtedness maturing each year and the interest thereon, however, shall be first provided for and paid out of said funds. The loans authorized herein shall not be subject to other limitations, restrictions, or provisions of the general laws

governing the borrowing of money, amounts of indebtedness, budget, and election, and said loans may be made by the board of supervisors of such county either by issuance of county bonds, notes, or certificates of indebtedness which shall be full faith and credit obligations of the county issuing same and shall be payable, both as to principal and interest, from the same sources of revenue and taxes made available for the payment of road protection bonds under the provisions of this chapter, which sources of revenue and taxes are irrevocably pledged toward the repayment of any monies borrowed or any bonds issued under the provisions of this section. The money herein authorized to be borrowed by such board of supervisors may be borrowed from any person, firm, corporation, governmental lending agency, or from any sinking funds of such county; if the money be borrowed from any sinking fund, it shall be repaid before the sinking fund from which it is borrowed, when supplemented by funds paid into same, is needed. Before the board of supervisors shall borrow money under this section, it shall spread on its minutes an order reciting such intention and shall thereafter publish a copy of such order in three weekly issues of some newspaper having a general circulation in the county. If, within fifteen days after the first publication of a copy of such order, fifteen per cent of the qualified electors of the county shall file with such board of supervisors a petition in writing requesting an election on the question of borrowing money in the amount and for the purpose as set forth in such order, then such money shall not be borrowed unless authorized by a majority of the qualified voters of such county voting in an election to be ordered by such board of supervisors for that purpose. Notice of such election shall be given and such election shall be held and conducted as provided by law in connection with elections for the submission of bond issues in such county. If such proposition shall fail to receive such majority vote at such election, then no further proceedings for the borrowing of such money shall be had or taken within a period of six months from and after the date of such election. If, however, no such petition shall be so filed, or if at such election such petition shall be assented to by a majority vote, then such board of supervisors shall be authorized to borrow such money in the amount and for the purpose as set forth in such order as published. The amount authorized to be borrowed under this section may be borrowed at any time and in any amount, but the total borrowed shall not exceed five hundred thousand dollars ($500,000.00) in addition to such sums as may heretofore have been borrowed for the purposes herein enumerated, or either of them, and especially in addition to any sums that may have heretofore been borrowed or in addition to any bonds that may have heretofore been issued under authority of Section 65-33-51. Any attorneys' fees paid for the issuance of said bonds shall be paid out of the general fund of said county.

(2) The board of supervisors is hereby given full power and authority to meet and do and grant any request of the United States beach erosion board of the United States army engineers by and under Public Law 727, 79th Congress, Chapter 960, 2nd Session, and to assure either or both the following:

(a) Assure maintenance of the sea wall and drainage facilities, and of the beach by artificial replenishment, during the useful life of these works, as may be required to serve their intended purpose;

(b) Provide, at the county's own expense, all necessary land, easements, and rights of way;

(c) To hold and save the United States free from all claims for damages that may arise either before, during, or after prosecution of the work;

(d) To prevent, by ordinance, any water pollution that would endanger the health of the bathers;

(e) To assume perpetual ownership of any beach construction and its administration for public use only, and that the board of supervisors is given full power and authority to do any and all things necessary in and about the repair and reconstruction, or construction or maintenance of the sea wall and sloping beach adjacent thereto, built under the authority of this section, and it is given such power to cooperate with the requirements of the United States government to receive any grant or grants of money from congress or to contribute any grant or grants to the United States army engineers in and about this construction and maintenance, and it is further given full power and authority to employ engineers, lawyers, or any other professional or technical help in and about the completion of this project. In the event the county engineer is selected to do any or all of said work, the board of supervisors is hereby authorized to pay and allow him such reasonable fees or salary which, in its opinion, is necessary, just, and commensurate to work done by him.

It is further given full power and authority to let, by competitive bids, any contract for the repair of said wall, or for the installation and drainage, and for the construction of any additional section of wall, together with any artificial beach adjacent to said wall, and for the raising of any roadbeds and the construction of any such retaining wall.

The intent and purpose of this section is to give unto the respective boards the full power and authority to carry out all the provisions herein, and to act independently, jointly, or severally with the United States government by and under Public Law 727, 79th Congress.

(3) The provisions of this section shall not apply to any county with an assessed valuation of less than ten million dollars ($10,000,000.00).

SOURCES: Codes, 1942, § 8516.4; Laws, 1952, ch. 214, §§ 1-3.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 65-33-55. Additional counties authorized to borrow money and receive federal aid.

(1) In any county maintaining a sea wall or road protection structure under provisions of this chapter and having an assessed valuation of five million dollars or less, the board of supervisors may borrow funds not in excess of four hundred thousand dollars ($400,000.00), at a rate of interest not

exceeding five per cent per annum, in addition to such sums as have heretofore been borrowed for the purpose of constructing, repairing, strengthening, or maintaining the road protection structure or sea wall of the county. Such board of supervisors shall have the authority to own a dredge boat and to use and operate it for the purpose of pumping a sand beach adjacent to such sea wall or road protection structure or for the maintenance thereof, and to pay for same out of any funds provided under this section. The funds or amount borrowed for the purposes provided in this section shall be repaid within a period of twenty years from the date borrowed, and shall be paid out of the funds collected under this chapter. All bonds, notes, or certificates of indebtedness maturing each year and the interest thereon, however, shall be first provided for and paid out of said funds. The loans authorized herein shall not be subject to other limitations, restrictions, or provisions of the general laws governing the borrowing of money, amounts of indebtedness, budget, and election; and said loans may be made by the board of supervisors of such county either by issuance of county bond, notes, or certificates of indebtedness which shall be full faith and credit obligations of the county issuing same and shall be payable, both as to principal and interest, from the same sources of revenue and taxes made available for the payment of road protection bonds under the provisions of this chapter. The money herein authorized to be borrowed by such board of supervisors may be borrowed from any person, firm, corporation, governmental lending agency, or from any sinking funds of such county; if the money be borrowed from any sinking fund, it shall be repaid before the sinking fund from which it is borrowed, when supplemented by funds paid into same, is needed. Before the board of supervisors shall borrow money under this section, it shall spread on its minutes an order reciting such intention, and shall call an election and submit the question of issuing bonds under this section to the qualified voters of such county in accordance with the present laws of issuing bonds. If a majority of the qualified electors voting in said election vote to issue said bonds, then the board of supervisors shall proceed to issue so much or such parts of said bonds not to exceed four hundred thousand dollars ($400,000.00).

(2) The board of supervisors is given full power and authority to do any and all things necessary in its opinion to obtain funds from the United States government by and under Public Law 727, 79th Congress, Chapter 960, 2nd Session, or under any other law, and in and about the solicitation and preparation of any application; and it may do any and all things necessary in the promotion of obtaining relief under this act of congress for such county, and it is further given authority to assure the United States government, the United States beach erosion board, and the United States army engineers the following:

(1) Assure maintenance of the sea wall and drainage facilities, and of the beach by artificial replenishment, during the useful life of these works, as may be required to serve their intended purpose;

(2) Provide, at the county's own expense, all necessary land, easements, and rights of way;

(3) To hold and save the United States free from all claims for damages that may arise either before, during, or after prosecution of the work;

(4) To prevent, by ordinance, any water pollution that would endanger the health of the bathers;

(5) To assume perpetual ownership of any beach construction and its administration for public use only.

The intent and purpose of this section is to give unto the respective boards of supervisors the full power and authority to carry out all of the provisions herein, and to act independently, jointly, or severally with the United States government by and under Public Law 727, 79th Congress, or other laws.

SOURCES: Codes, 1942, § 8516.5; Laws, 1948, ch. 335, §§ 1, 2.

§ 65-33-57. New bonds authorized to cancel sinking fund obligations.

In any county wherein a seawall or road protection structure is maintained under the provisions of this chapter, which has invested surplus funds belonging to a road protection bond and interest sinking fund in the purchase of any notes, certificates of indebtedness, bonds, or other interest bearing obligations issued under the authority of Section 65-33-49, or refunding bonds issued or authorized to be issued in lieu thereof, and such notes, bonds, certificates of indebtedness, or refunding bonds are now held by such county for the use and benefit of such fund, and the board of supervisors of such county finds, by order spread upon its minutes, that the needs of such sinking fund demands it, or that it is to the best interest of the county to reduce such obligations so held to cash, such board of supervisors may authorize to be issued and issue and sell new road protection bonds in the aggregate amount of such notes, bonds, or certificates of indebtedness so held and authorized for the purpose of providing funds with which to take up, redeem, and cancel such obligations now held in such sinking fund. Upon the issuance of such road protection bonds, the said bonds, notes, certificates of indebtedness, and refunding bonds issued under authority of said section shall be cancelled.

SOURCES: Codes, 1942, § 8517; Laws, 1938, ch. 313.

Cross References — Terms of new bonds, see § 65-33-59.

JUDICIAL DECISIONS

1. In general.

Where a board of supervisors under statutory authority formally borrowed a sum of money from certain sinking funds and duly issued its notes payable to the county for the benefit of such funds in the amount of the sum borrowed, and thereafter pursuant to law authorized the issuance of bonds to take up the note due the sinking fund, decree validating the bond issue was affirmed. Meridian Taxicab Co. v. Ward, 184 Miss. 499, 186 So. 636, 120 A.L.R. 1346 (1939).

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 163 et seq.

§ 65-33-59. Terms of new bonds.

Bonds issued under the authority of Sections 65-33-57 and 65-33-59 shall be full faith and credit obligations of the county issuing the same; shall mature within fifteen years of their date of issuance in such annual maturities and denominations as the board of supervisors may direct; shall bear interest at a rate not to exceed five and one half per centum per annum, payable semiannually; may be issued without notice or an election therefor; and shall not be subject to any limitation relative to amount of bonded debt. Such bonds and the interest thereon shall be payable both as to principal and interest from the same sources of revenue and taxes made available for the payment of road protection bonds under the provisions of this chapter. Nothing herein contained shall be construed to affect any of the provisions of House Bill No. 287 [ch. 130] as enacted at the Regular 1938 Session of the Mississippi Legislature.

SOURCES: Codes, 1942, § 8518; Laws, 1938, ch. 313.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 163 et seq.

§ 65-33-61. Refunding bonded indebtedness.

The board of supervisors of any county operating under the provisions of this chapter is hereby authorized to refund any bonded indebtedness of such county now outstanding, payable from the sources of revenue provided by this chapter, and to issue refunding bonds of such county, which shall be secured by and payable from the same sources of revenue as the bonds refunded thereby. The said refunding bonds may be issued by the board of supervisors of such county only after the question of the issue of said refunding bonds shall have been submitted to the qualified electors of such county at an election to be held for that purpose in said county, and only after the said issue has been authorized by a vote of three fifths of the qualified electors voting in an election to be ordered by the board of supervisors for that purpose, whenever any such board of supervisors shall find it necessary or advisable or in the best interest of such county so to do. Such refunding bonds may be issued only to redeem outstanding bonds at maturity, or on any date upon which outstanding bonds may be redeemable, or upon the voluntary surrender of outstanding bonds by the owners thereof. Such refunding bonds may be sold for not less than par and accrued interest, or may be exchanged for bonds to be refunded thereby; however, the issue of such refunding bonds shall be accomplished in such manner as to avoid payment by the county of interest on the refunding bonds and on the bonds refunded thereby for the same period of time.

SOURCES: Codes, 1942, § 8518-01; Laws, 1944, ch. 202, § 1.

Cross References — Uniform system for issuance of county bonds and notes, see §§ 19-9-1 et seq.

Refunding bonds generally, see §§ 31-15-1 et seq.

Financing of refunding bonds by tax levy, see § 65-33-67.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 236 et seq.

§ 65-33-63. Refunding bonds; interest; form; maturity.

Such refunding bonds shall bear such rate or rates of interest as may be determined by the board of supervisors, not exceeding, however, three and one-half per centum per annum, payable semiannually; shall be in such denomination or denominations and form as may be determined by the board of supervisors; shall be executed on behalf of the county by the president of the board of supervisors, countersigned by the clerk of such board; and the interest to accrue on such bonds shall be represented by coupons to be attached thereto, which may be executed by the facsimile signatures of such officers. Such refunding bonds shall mature in such amount or amounts and at such time or times, not exceeding twenty-five years from date thereof, as may be specified by the board of supervisors. All such refunding bonds and interest thereon shall be payable at the office of the state treasurer of the State of Mississippi in the city of Jackson, Mississippi, and a certified copy of the proceedings authorizing the issuance of such refunding bonds shall be filed in said office. The bonds issued under the provisions of Sections 65-33-61 through 65-33-71 shall in no way be construed as state obligations or state bonds.

SOURCES: Codes, 1942, § 8518-02; Laws, 1944, ch. 202, § 2.

Cross References — Sinking fund for refunding bonds, see § 65-33-65.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 163 et seq.

§ 65-33-65. Sinking fund for refunding bonds.

The fact of the issuance and delivery of refunding bonds hereunder shall be certified by the clerk of the board of supervisors to the state Treasurer, who shall immediately register such bonds in a suitable bond register. Thereafter, the revenues and taxes which would otherwise be paid into the county treasury of such county for the payment of road protection and seawall bonds and interest thereon under the provisions of Section 65-33-45, shall be paid by the official collecting such taxes into the state treasury on a proper receive warrant of the state auditor to the credit of such county in a special fund to be designated "interest and sinking fund for road protection and seawall bonds of ———— County, Mississippi," which fund shall be held and shall be applied by the state treasurer in the payment of interest accruing on such refunding bonds and the principal thereof at maturity, according to law. In the event that less than all of outstanding bonds payable under the provisions of this chapter shall be refunded as herein provided, then and in that event there shall be paid into the state treasury, for the credit of the aforesaid interest and sinking fund, only the proportion of the revenues and taxes as the amount of refunding bonds issued and outstanding bears to the total amount of outstanding bonds payable from the revenues herein referred to.

SOURCES: Codes, 1942, § 8518-03; Laws, 1944, ch. 202, § 3.

Editor's Note — Section 7-7-2, as added by Laws, 1984, chapter 488, § 90, and amended by Laws, 1985, chapter 455, § 14, Laws 1986, chapter 499, § 1, provided, at subsection (2) therein, that the words "state auditor of public accounts," "state auditor", and "auditor" appearing in the laws of the state in connection with the performance of auditor's functions transferred to the state fiscal management board, shall be the state fiscal management board, and, more particularly, such words or terms shall mean the state fiscal management board whenever they appear. Thereafter, Laws, 1989, chapter 532, § 2, amended § 7-7-2 to provide that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer, and, more particularly, such words or terms shall mean the State Fiscal Officer whenever they appear. Subsequently, Laws, 1989, ch. 544, § 17, effective July 1, 1989, and codified as § 27-104-6, provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration".

Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer.

Section § 27-104-6, provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration."

§ 65-33-67. Tax levy to finance refunding bonds.

The board of supervisors of any county issuing refunding bonds under the provisions of Sections 65-33-61 through 65-33-65, shall levy an annual tax of not less than five mills on each dollar of the assessed valuation of taxable property within such county for the purpose of providing funds sufficient to pay such bonds at maturity and interest thereon as it accrues. The said tax shall be levied and collected as other county taxes are levied and collected, and the proceeds thereof shall be remitted by the county tax collector to the State Treasury at the time when state taxes are required by law to be so remitted. The State Treasurer shall credit the amount to the interest and sinking fund referred to in Section 65-33-65. On or before October 1st in each year, the State Treasurer shall certify to the board of supervisors of each such county the amount standing to the credit of such interest and sinking fund as of September 15th, of that year, and if such amount shall be sufficient (1) to pay all principal of and interest on such bonds then due and owing and (2) all principal of and interest on such refunding bonds maturing and accruing during the period of twelve months running from said September 15th, then and in that event such board of supervisors may reduce the aforesaid taxes or omit the same for the ensuing year, as such board may determine. All funds paid into the State Treasury hereunder shall remain in the State Treasury for the payment of principal and interest on such refunding bonds until all the principal and interest on such refunding bonds shall have been fully paid.

SOURCES: Codes, 1942, § 8518-04; Laws, 1944, ch. 202, § 4.

§ 65-33-69. Fees and expenses for refunding bonds.

The board of supervisors shall pay all lawful fees of the chancery clerk and its attorney now prescribed by law, which fees are incidental to the execution of said refunding bonds, and may also pay all expenses in connection with the validation of said refunding bonds and procuring the opinion as to the validity thereof from some expert bond attorney, other than the state bond attorney, of national reputation. However, in cases where the bonds to be refunded are not due or redeemable prior to maturity, such board in procuring the surrender of such outstanding bonds may expend not exceeding an additional two and one-half percent (2 ½%) of the principal amount of refunding bonds actually issued and delivered, but in no event shall any part of the said two and one-half percent (2 ½%) be used in the payment of attorney's fees. All such fees and compensation shall be paid out of the interest and sinking fund applicable to the bonds to be refunded, if the amount credited to such fund be adequate therefor. Otherwise, such fees and compensation shall be paid out of the proceeds of a special annual tax to be levied for that purpose by the board of supervisors upon all taxable property within such county. All expenses as authorized by Sections 65-33-61 through 65-33-71 in effectuating the exchange of said bonds and the actual expense of the state treasurer in paying principal and interest on said bonds shall be paid by the board of supervisors of the county.

SOURCES: Codes, 1942, § 8518-05; Laws, 1944, ch. 202, § 5.

§ 65-33-71. Full authority and powers conferred.

The provisions of Sections 65-33-61 through 65-33-71, without reference to any other statute, shall be deemed full and complete authority for the issuance of refunding bonds as therein provided; and all powers necessary to be exercised by the board of supervisors of such counties, in order to carry out the provisions of said sections, are hereby conferred.

SOURCES: Codes, 1942, § 8518-06; Laws, 1944, ch. 202, § 6.

CHAPTER 37

Local System Bridge Replacement and Rehabilitation Program

Sec.
65-37-1. Establishment and administration of program; eligibility of bridges.
65-37-3. Allocation of funds; definitions.
65-37-5. Powers and duties of State Aid Engineer.
65-37-7. Eligibility of counties for expenditure of funds; conditions; forfeiture of funds under certain circumstances; reallocation of forfeited monies; written notice preceding forfeiture.
65-37-9. Payment of engineering expenses.
65-37-11. Maintenance of bridges; inspections; forfeiture of funds by county ineligible for two years.
65-37-13. Local System Bridge Replacement and Rehabilitation Fund; appropriations; expenditures; crediting of monies to counties in advance of normal accrual.
65-37-15. Use of funds once bridges repaired; payment of bonds, notes, and obligations.

§ 65-37-1. Establishment and administration of program; eligibility of bridges.

(1) There is established a local system bridge replacement and rehabilitation program to be administered by the State Aid Engineer for the purpose of assisting counties and municipalities in the replacement and rehabilitation of certain bridges located on local road systems in the counties and in incorporated municipalities within the counties. In order to be eligible under this program, a bridge must be eligible for replacement or rehabilitation as determined by the National Bridge Inspection Standards sufficiency rating and must be included on the latest annual official bridge inventory maintained by the Office of State Aid Road Construction, excluding bridge inventories on the State Aid Road System, the municipal urban system or the rural major collector system.

(2) In the replacement or rehabilitation of bridges pursuant to this chapter, consideration may be given to utilizing timber products on some projects, provided that such projects using timber products will be comparable in cost to, and can be constructed to meet current standards for, similar projects using concrete and steel.

(3) The provisions of this chapter shall not be construed to permit routes on which projects are performed under this chapter to be eligible for inclusion on the state aid system except in accordance with the provisions of Sections 65-9-1 et seq.

SOURCES: Laws, 1994, ch. 557, § 3, eff from and after July 1, 1994.

§ 65-37-3. Allocation of funds; definitions.

(1) For the purposes of this section, the following terms shall have the meanings ascribed to them in this subsection:

(a) "Deficient bridge" means a bridge that is eligible for replacement or rehabilitation as determined by the National Bridge Inspection Standards sufficiency rating and that is included on the latest annual official bridge inventory prepared by the Office of State Aid Road Construction as a bridge having a sufficiency rating of fifty (50) or less, excluding bridges on the state aid road system, the municipal urban system and the rural major collector system.

(b) "Local system road miles" means all highways, roads and streets within a county, including highways, roads and streets within incorporated municipalities of the county, that are not included on the designated state highway system.

(2) From the funds on deposit and credited to the Local System Bridge Replacement and Rehabilitation Fund created in Section 65-37-13, each county shall be allocated a percentage of such funds as they become available, which percentage shall be based:

(a) One-half (½) on the proportion that the total number of deficient bridges in the county bears to the total number of deficient bridges in all counties of the state; and

(b) One-half (½) on the proportion that the total number of local system road miles in the county bears to the total number of local system road miles in all counties of the state.

SOURCES: Laws, 1994, ch. 557, § 4, eff from and after July 1, 1994.

§ 65-37-5. Powers and duties of State Aid Engineer.

In administering the provisions of this chapter, the State Aid Engineer shall have the following powers and duties:

(a) To supervise the use of all funds made available under this chapter for local bridge replacement and rehabilitation projects on local road systems;

(b) To review and certify all projects for which funds are authorized to be made available under this chapter for local bridge replacement and rehabilitation projects on local road systems;

(c) To requisition monies in the Local System Bridge Replacement and Rehabilitation Fund and pay and distribute those monies on a project-by-project basis in accordance with the allocation formula established by Section 65-37-3;

(d) To insure that each four-year plan submitted by a county to the State Aid Engineer and the funds allocated to a county under this chapter provide for an equitable distribution of projects and funds among the county and incorporated municipalities located therein based upon the number and costs of deficient bridges in both the county and the municipalities;

(e) To establish and require specific designs and standards to be followed by the counties in replacing and rehabilitating bridges under this chapter, which designs and standards shall equal or exceed the design and standards prescribed for bridges on the State Aid Road System;

(f) To maintain an accurate record of all local bridge replacement and rehabilitation funds allocated to counties and of the number of bridges replaced or rehabilitated, their location and the costs for each project. Such records shall be kept separate from other records of the Office of State Aid Road Construction;

(g) To periodically notify the counties of bridges eligible for replacement and rehabilitation under the provisions of this chapter;

(h) To adopt and promulgate such rules and regulations as may be necessary or desirable for the purpose of implementing the provisions of this chapter; and

(i) To file annually with the Legislature a report detailing how monies in the Local System Bridge Replacement and Rehabilitation Fund were spent during the preceding fiscal year in each county, including in the incorporated municipalities of each county, the number of projects approved and constructed, the length of bridges completed and the cost per foot of each bridge constructed.

SOURCES: Laws, 1994, ch. 557, § 5, eff from and after July 1, 1994.

§ 65-37-7. Eligibility of counties for expenditure of funds; conditions; forfeiture of funds under certain circumstances; reallocation of forfeited monies; written notice preceding forfeiture.

(1) In order for a county to be eligible for the expenditure of funds under the provisions of this chapter, the board of supervisors of the county shall meet the following conditions:

(a) On or before January 1, 1995, and on or before January 1 of each year thereafter, the board of supervisors shall present to the State Aid Engineer on a form to be prepared by the State Aid Engineer, a four-year plan of bridge replacement and rehabilitation for the county. The plan shall identify the project or projects and shall contain a detailed plan prepared and approved by the engineer for the county. The plan shall specify the condition of the existing bridges included in the project, the drainage requirements, the type of replacement or rehabilitation to be made and the design and specifications therefor. Four-year plans may be modified each year or more often as necessary provided that the modifications are submitted to the State Aid Engineer.

(b) The county shall agree to employ a qualified engineer and such other technical experts as may be necessary to perform all engineering services required for the projects. The engineer shall be required to inspect the construction of the projects and to approve all estimate payments made on the projects.

(c) The county and municipalities shall agree to construct, at their own expense, the base and surface of all approaches providing necessary connections to each bridge project within their respective jurisdictions, including the base and surface for culvert projects whenever fill material is placed as part of the contract.

(d) The county and municipalities shall agree to acquire all rights-of-way and relocate or make adjustments to public utilities for each bridge project within their respective jurisdictions as may be necessary in the manner provided by law for the acquisition of rights-of-way and the uniform policy for accommodation of utility facilities within the rights-of-way of state aid roads as adopted by the State Aid Engineer under authority of Section 65-9-1 et seq. Rights-of-way may be acquired by gift, purchase, deed, dedication or eminent domain. The only costs that may be paid from funds provided under this chapter for right-of-way acquisition shall be the actual cost paid by the county to the landowner for the land acquired as certified to the State Aid Engineer by the attorney for the board of supervisors. The only cost that may be paid from funds provided under this chapter for utility adjustments shall be the actual cost paid by the county for utility adjustments pursuant to contract let by the county as certified to the State Aid Engineer by order of the board of supervisors.

(2) A county shall not be eligible for the expenditure of monies allocated to it under this chapter and the State Aid Engineer shall not certify the use or expenditure of such monies on any bridge that has a sufficiency rating of greater than fifty (50), as determined by National Bridge Inspection standards, unless the State Aid Engineer certifies that all bridges on the local road system within the county for which funds may be made available under this chapter have a sufficiency rating of greater than fifty (50) or that all such bridges in the county with a sufficiency rating of less than fifty (50) are currently under contract for replacement or rehabilitation. When the State Aid Engineer certifies that all such bridges of a county have a sufficiency rating of greater than fifty (50) or that all such bridges within the county with a sufficiency rating of fifty (50) or less are currently under contract for replacement or rehabilitation, then that county shall be eligible for the expenditure of funds allocated to it under this chapter for:

(a) The maintenance and replacement of other drainage related structures in accordance with designs and standards prescribed for such projects by the Office of State Aid Road Construction, or

(b) The Local System Road Program established pursuant to Sections 65-18-1 through 65-18-17.

(3)(a) Except as otherwise provided in paragraph (d) of this subsection (3), when a county has failed to expend the monies allocated to it under the Local System Bridge Replacement and Rehabilitation Program, as described in this chapter, for an uninterrupted period of two (2) successive fiscal years, the county shall forfeit and no longer be entitled to the outstanding cumulative balance on hand of the monies that were allocated to it under the program before that period of time.

(b) The county is eligible to receive funds allocated to it in fiscal years occurring after that period of time that caused a forfeiture under the provisions of paragraph (a) of this subsection (3), unless it so forfeits monies again under that provision.

(c) Monies forfeited each fiscal year under the provisions of this subsection (3) shall be reallocated annually among only those counties that are determined by the State Aid Engineer to be eligible for the monies during that fiscal year, with each eligible county receiving an equal amount of the reallocated funds.

(d) Before a forfeiture of funds may occur under the provisions of paragraph (a) of this subsection (3), the State Aid Engineer shall give written notice to the board of supervisors of the county at least ninety (90) days before the forfeiture, and for good cause shown, he may allow the county an additional twelve (12) months to expend the funds subject to the forfeiture.

SOURCES: Laws, 1994, ch. 557, § 6; Laws, 1999, ch. 549, § 1; Laws, 2001, ch. 492, § 12; Laws, 2008, ch. 453, § 1; Laws, 2009, ch. 381, § 1, eff from and after July 1, 2009.

Cross References — Local System Road Program to assist counties in the construction, reconstruction and paving of county roads not on the state aid road system, see §§ 65-18-1 et seq.

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Local System Bridge Replacement and Rehabilitation Program funds may be allocated to the county by the State Aid Engineer for use in construction, reconstruction, and paving of local system roads, provided (1) all the local system bridges have a sufficiency rating of 50 or greater or those bridges with a sufficiency rating of less than 50 are currently under contract for replacement or rehabilitation, and (2) the requirements of Section 6 of SB 2318 are met. Gore, III, Aug. 31, 2001, A.G. Op. #01-0553.

§ 65-37-9. Payment of engineering expenses.

Engineering costs for any project performed under this chapter, including the salaries or fees of the engineer, may be paid from the Local Bridge Replacement Rehabilitation Fund allocations to a county; however, the maximum fee paid to an engineer from the fund shall not exceed twelve percent (12%) of the final construction cost, with the methods of payment to be approved by the State Aid Engineer under regulations promulgated by the State Aid Engineer. No such costs shall be paid to an engineer before the letting of the project.

SOURCES: Laws, 1994, ch. 557, § 7; Laws, 2008, ch. 454, § 2, eff from and after July 1, 2008.

§ 65-37-11. Maintenance of bridges; inspections; forfeiture of funds by county ineligible for two years.

(1) The board of supervisors of each county and the governing authorities of each municipality shall be responsible for properly maintaining all bridges replaced or repaired in their respective jurisdictions under the provisions of this chapter.

(2) The State Aid Engineer and his assistants shall make annual maintenance inspections of completed bridge projects and such other periodic inspections as the State Aid Engineer deems necessary. If at any time the State Aid Engineer is of the opinion that a county or municipality has not provided proper maintenance as required by subsection (1) of this section, he shall give written notice thereof to the board of supervisors of the county or the governing authorities of the municipality of default and direct such maintenance as may be necessary to be performed. If within sixty (60) days of the receipt of such notice the board of supervisors or governing authorities have not performed such maintenance as may be necessary, then the county or municipality shall not thereafter be eligible to participate in the Local System Bridge Replacement and Rehabilitation Program.

(3) Whenever any county fails to be eligible for the expenditure of monies allocated to it under the provisions of this chapter for a continuous period of two (2) years because it has failed to properly maintain bridges under the Local System Bridge Replacement and Rehabilitation Program, then the county shall forfeit and no longer be entitled to any part of the monies in the Local System Bridge Replacement and Rehabilitation Fund theretofore allocated to it. The balance of the monies theretofore allocated to it shall be reallocated pro rata among all other eligible counties in accordance with the formula established in Section 65-37-3.

SOURCES: Laws, 1994, ch. 557, § 8; Laws, 2009, ch. 381, § 2, eff from and after July 1, 2009.

§ 65-37-13. Local System Bridge Replacement and Rehabilitation Fund; appropriations; expenditures; crediting of monies to counties in advance of normal accrual.

(1) There is created in the State Treasury a special fund to be designated as the "Local System Bridge Replacement and Rehabilitation Fund." The fund shall consist of monies that the Legislature appropriates under subsection (2) of this section, the proceeds of bonds issued under Section 10 of Chapter 557, Laws of 2009, and any other monies that the Legislature may designate for deposit into the fund. Monies in the fund may be expended upon legislative appropriation in accordance with the provisions of this chapter.

(2)(a) During each regular legislative session held in calendar years 1995, 1996, 1997 and 1998, if the official General Fund revenue estimate for the succeeding fiscal year for which appropriations are being made reflects a growth in General Fund revenues of three percent (3%) or more for that succeeding fiscal year, then the Legislature shall appropriate Twenty-five Million Dollars ($25,000,000.00) from the State General Fund for deposit into the Local System Bridge Replacement and Rehabilitation Fund.

(b) During the regular legislative session held in calendar year 1999, if the official General Fund revenue estimate for the succeeding fiscal year for which appropriations are being made reflects a growth in General Fund revenues of two percent (2%) or more for the succeeding fiscal year, then the

Legislature shall appropriate Ten Million Dollars ($10,000,000.00) from the State General Fund for deposit into the Local System Bridge Replacement and Rehabilitation Fund.

(c) Except as otherwise provided in this paragraph (c), during each regular legislative session held in calendar years 2001 through 2016, if the official General Fund revenue estimate for the succeeding fiscal year for which appropriations are being made reflects a growth in General Fund revenues of two percent (2%) or more for the succeeding fiscal year, then the Legislature shall appropriate Twenty Million Dollars ($20,000,000.00) from the State General Fund for deposit into the Local System Bridge Replacement and Rehabilitation Fund. However, during the regular legislative sessions held in calendar years 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010 and 2011, the Legislature shall not be required to appropriate funds for deposit into the Local System Bridge Replacement and Rehabilitation Fund.

(3) Monies that are deposited into the fund under the provisions of this section may be expended upon requisition therefor by the State Aid Engineer in accordance with the provisions of this chapter. The Office of State Aid Road Construction shall be entitled to reimbursement from monies in the fund, upon requisitions therefor by the State Aid Engineer, for the actual expenses incurred by the office in administering the provisions of the local system bridge replacement and rehabilitation program. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the fund shall be deposited to the credit of the fund.

(4) Monies in the Local System Bridge Replacement and Rehabilitation Fund shall be allocated and become available for distribution to counties in accordance with the formula prescribed in Section 65-37-3 beginning January 1, 1995, on a project-by-project basis. Monies in the Local System Bridge Replacement and Rehabilitation Fund may not be used or expended for any purpose except as authorized under this chapter.

(5) Monies in the Local System Bridge Replacement and Rehabilitation Fund may be credited to a county in advance of the normal accrual to finance certain projects, subject to the approval of the State Aid Engineer and subject further to the following limitations:

(a) That the maximum amount of such monies that may be advanced to any county shall not exceed ninety percent (90%) of the funds estimated to accrue to such county during the remainder of the term of office of the board of supervisors of such county;

(b) That no advance credit of funds will be made to any county when the unobligated balance in the Local System Bridge Replacement and Rehabilitation Fund is less than One Million Dollars ($1,000,000.00); and

(c) That such advance crediting of funds be effected by the State Aid Engineer at the time of the approval of the plans and specifications for the proposed projects.

It is the intent of this provision to utilize to the fullest practicable extent the balance of monies in the Local System Bridge Replacement and Rehabilitation Fund on hand at all times.

SOURCES: Laws, 1994, ch. 557, § 10; Laws, 1999, ch. 415, § 2; Laws, 1999, ch. 549, § 2; Laws, 2000, ch. 574, § 8; Laws, 2003, ch. 469, § 17; Laws, 2004, 3rd Ex Sess, ch. 1, § 135; Laws, 2006, ch. 559, § 17; Laws, 2007, ch. 580, § 14; Laws, 2008, ch. 504, § 2; Laws, 2008, ch. 507, § 13; Laws, 2009, ch. 381, § 3; Laws, 2009, ch. 557, § 11; Laws, 2009, ch. 563, § 10; Laws, 2010, ch. 520, § 5; Laws, 2010, ch. 562, § 10, eff from and after passage (approved May 21, 2010.)

Joint Legislative Committee Note — Section 2 of ch. 415, Laws of 1999, effective from and after July 1, 1999, amended this section. Section 2 of ch. 549, Laws of 1999, effective from and after July 1, 1999, also amended this section. As set out above, this section reflects the language of Section 2 of ch. 549, Laws of 1999, pursuant to Section 1-3-79 which provides that whenever the same section of law is amended by different bills during the same legislative session, and the effective dates of the amendments are the same, the amendment with the latest approval date shall supersede all other amendments to the same section approved on an earlier date.

Section 2 of ch. 504, Laws of 2008, effective upon passage (approved April 23, 2008), amended this section. Section 13 of ch. 507, Laws of 2008, effective upon passage (approved April 29, 2008), also amended this section. As set out above, this section reflects the language of Section 13 of ch. 507, Laws of 2008, which contains language that specifically provides that it supersedes § 65-37-13, as amended by Laws of 2008, ch. 504.

Section 3 of ch. 381, Laws of 2009, effective from July 1, 2009 (approved on March 17, 2009, amended this section. Section 11 of ch. 557, Laws of 2009, effective from and after passage (approved April 17, 2009) and Section 10 of ch. 563, Laws of 2009, effective from and after passage (approved May 13, 2009) also amended this section. As set out above, this section reflects the language of all amendments pursuant to Section 1-1-109 which gives the Joint Legislative Committee on Compilation, Revision, and Publication authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Committee on Compilation, Revision, and Publication ratified the integration of these amendments as consistent with the legislative intent at the July 13, 2009, meeting of the Committee.

Section 10 of ch. 562, Laws of 2010, effective upon passage (approved May 21, 2010), amended this section. Section 5 of ch. 520, Laws of 2010, effective upon passage (approved April 14, 2010), also amended this section. The amendments to this section do not conform and do not meet the Joint Committee's criteria for integration. As set out above, this section reflects the language of Section 10 of ch. 562, Laws of 2010, pursuant to Section 1-3-79 which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect earlier.

Editor's Note — Laws of 2008, ch. 507, § 1, provides:

"SECTION 1. This act shall be known and may be cited as the 'Budget Reconciliation Act of 2008.'"

Laws of 2004, 3rd Ex Sess, ch. 1, § 228 provides:

"SECTION 228. Except as otherwise provided in this act, any entity using funds authorized and made available under Chapter 1, 2004 Third Extraordinary Session, is authorized, in its discretion, to set aside not more than twenty percent (20%) of such funds for expenditure with small business concerns owned and controlled by socially and economically disadvantaged individuals. The term "socially and economically disadvantaged individuals" shall have the meaning ascribed to such term under Section 8(d) of the Small Business Act (15 USCS, Section 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for the purposes of this section."

Amendment Notes — The first 2010 amendment (ch. 520), effective April 14, 2010, deleted "the proceeds of bonds issued under Section 10 of Chapter 557, Laws of 2009" preceding "and any other monies" in the second sentence in (1); and added "and 2010" and made a related change in the last sentence in (2)(c).

The second 2010 amendment (ch. 562), in (2)(c), in the first sentence, substituted "in calendar years 2001 through 2016" for "in calendar years 2001 through 2014," and in last sentence, inserted "2010 and 2011," and made a related change.

§ 65-37-15. Use of funds once bridges repaired; payment of bonds, notes, and obligations.

Notwithstanding any other provisions of this chapter, when all deficient bridges of a county which have a sufficiency rating of less than fifty (50) have been replaced or are under contract for replacement or rehabilitation, then monies in the Local System Bridge Replacement and Rehabilitation Fund created under Section 65-37-13, that are allocated to a particular county may be expended for the purpose of paying the principal, interest and debt service on any bonds, notes or obligations issued or incurred by that county before the effective date of this chapter for the purpose of replacing or rehabilitating any bridge or drainage-related structure on any highway, road or street under the jurisdiction of that county, upon presentation to the State Aid Engineer of a resolution duly adopted and entered on the minutes of the board of supervisors of such county requesting such expenditure and reciting in the resolution such information as may be necessary for the State Aid Engineer to determine that the county is eligible for expenditure of funds under the provisions of this section.

SOURCES: Laws, 1994, ch. 557, § 11, eff from and after July 1, 1994.

CHAPTER 39

Gaming Counties Bond Sinking Fund

Sec.

65-39-1. Selection of road and bridge construction projects; feasibility studies; priorities.
65-39-2. Mississippi Department of Transportation to study and report on roads and highways within and approaching counties where gaming has been legalized.
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§ 65-39-1. Selection of road and bridge construction projects; feasibility studies; priorities.

(1) The Mississippi Transportation Commission is authorized, subject to the availability of funds in the Gaming Counties State-Assisted Infrastructure Fund created in Section 65-39-17, to conduct feasibility studies and, pursuant to information gathered in such studies, select routes and locations, perform preliminary engineering, acquire necessary right-of-way and property, construct and/or reconstruct and improve existing or new highways, roads, streets and bridges, including two-lane, four-lane and multilane roads (or segments thereof), perform intersection improvements, provide signal retiring, turnbay extensions, additional interchanges and other traffic modifications, within and approaching those counties in this state where legal gaming is being conducted or is authorized. Any highway, road, street or bridge that is authorized to be constructed, reconstructed or improved shall meet design standards established by the Mississippi Department of Transportation, shall be constructed to bear a load limit of at least eighty thousand (80,000) pounds and, upon completion, shall become a part of the state highway system, and thereafter shall be under the jurisdiction of the Mississippi Transportation Commission and the Mississippi Department of Transportation for construction and maintenance.

(2) The projects authorized in subsection (1) of this section shall include, but shall not be limited to, highways, roads, streets and bridges on and along the following locations:

(a) U.S. Highway 90 from its intersection with Mississippi 607 in Hancock County to Ocean Springs, and including Lakeshore Road in Hancock County from its intersection with U.S. Highway 90 to Beach Boulevard;

(b) Mississippi 4 from U.S. Highway 61 to Mississippi 3;

(c) Mississippi 4 from Mississippi 3 to Senatobia;

(d) Cowan/Lorraine Road from U.S. Highway 90 to I-10;

(e) U.S. Highway 49 from U.S. Highway 90 to I-10 in Gulfport;

(f) Mississippi 304 beginning at the Tennessee state line at or near U.S. Highway 72 and thence running in a southwesterly direction to intersect with U.S. Highway 78 at or near Byhalia and thence running in a westerly direction to intersect I-55 at or near Hernando and thence running in a westerly direction to intersect with U.S. Highway 61 in DeSoto County, with a spur extending southwesterly to or near Robinsonville in Tunica County;

(g) I-10 from Exit 28 to Exit 57;

(h) A new location from the northernmost point on I-110 to U.S. Highway 49;

(i) U.S. Highway 61 from the Tunica county line to the Tennessee state line;

(j)(i) Four-lanes for traffic along Mississippi 16 beginning at its intersection with Mississippi 25 and extending easterly to join the existing four-lane on the west side of Carthage within the corporate boundaries;

(ii) Passing lanes and turn lanes, as needed, along Mississippi 16 beginning at a point on the east side of Carthage within the corporate boundaries where the existing four-lane ends and extending easterly to the Leake/Neshoba county line; and

(iii) Four-lanes for traffic along Mississippi 16 beginning at the Leake/Neshoba county line and extending easterly to not more than ten (10) miles east of Mississippi 15;

(k) Cowan/Lorraine Road Extension from I-10 north to relocated/reconstructed Mississippi 67;

(*l*) At various locations on and along U.S. Highway 82 and Mississippi 1 in the City of Greenville;

(m) At various locations on and along I-20, U.S. Highway 61 and U.S. Highway 80 in the City of Vicksburg, including a truck route from Harbor Industrial Park to U.S. Highway 61 north and an extension of South Frontage Road with railroad bridge to I-20;

(n) At various locations on and along U.S. Highway 61, U.S. Highway 65, Washington, Homochitto, Martin Luther King, Jr., St. Catherine and East Franklin Streets in the City of Natchez;

(o) At various locations on and along U.S. Highway 90 in the City of Pass Christian;

(p) Mississippi 43/603 beginning where the existing four-lane ends north of I-10 and extending northerly to a point approximately one (1) mile north of Kiln where Mississippi 43/603 divides into Mississippi 43 and Mississippi 603;

(q) Mississippi 43 beginning where Mississippi 43 and Mississippi 603 divide and extending northwesterly to or near Picayune;

(r) U.S. Highway 49 from U.S. Highway 61 west to the Mississippi River bridge;

(s) Subject to the conditions prescribed in subsection (3) of this section, a central Harrison County connector from I-10 to U.S. Highway 90 in the vicinity of Canal Road to the Mississippi State Port at Gulfport;

(t) An east Harrison County connector from U.S. Highway 90 to I-10 to be located between the Cowan/Lorraine Road interchange and the I-110 interchange;

(u) At various locations on, along and approaching U.S. Highway 90 in Harrison, Hancock and Jackson Counties, which the Mississippi Transportation Commission determines will alleviate traffic congestion in Harrison, Hancock and Jackson Counties; and

(v) At various locations in the City of Natchez on, along and approaching U.S. Highway 61 (St. Catherine Street and Franklin Street), and including Mississippi Highway 555 beginning at Franklin Street and extending northerly and easterly to the Natchez Trace.

(3) Authorization for the project described in paragraph (2)(s) of this section is conditioned upon receipt by the Mississippi Transportation Commission of a written commitment by the Mississippi Development Authority to make available for such project not less than Six Million Dollars ($6,000,000.00).

(4) If a project authorized in this section is also included in the four-lane highway program under Section 65-3-97(3), then all contracts necessary to be let for the completion of the project under this section shall be let not later than the priorities established for the letting of contracts for the project under Section 65-3-97(3). Prioritization of construction for all other projects authorized in this section shall be conducted as provided for in Section 65-3-97(4).

(5)(a) Funds for the projects authorized under this section may be provided through the issuance of bonds under Sections 65-39-5 through 65-39-33, through the issuance of notes for such purposes under Section 31-17-127 or from such monies as may be available in the Gaming Counties State-Assisted Infrastructure Fund created under Section 65-39-17.

(b) In addition to the funds provided for under paragraph (a) of this subsection, funds for the project described in subsection (2)(s) of this section also may be provided from any available federal, state, county or municipal funds authorized for such project, including the Economic Development Highway Act.

SOURCES: Laws, 1994, ch. 557, § 14; Laws, 1995, ch. 523, § 2; Laws, 1996, ch. 497, § 1; Laws, 1997, ch. 562, § 2; Laws, 2002, ch. 582, § 3; Laws, 2006, ch. 493, § 1; Laws, 2007, ch. 577, § 3, eff from and after passage (approved Apr. 21, 2007.)

Cross References — Alternative funding for infrastructure projects under this section, see § 31-17-127.

As to duty of Mississippi Department of Transportation to study and report on roads recommending priorities for construction under the gaming counties state-assisted infrastructure program, see § 65-39-2.

§ 65-39-2. Mississippi Department of Transportation to study and report on roads and highways within and approaching counties where gaming has been legalized.

The Mississippi Department of Transportation shall study all roads and highways (or segments thereof) within and approaching those counties in this state where legal gaming is being conducted or is authorized, in addition to those roads, highways and projects described in Section 65-39-1(2), and, based on the volume capacity of such roads or highways (or segments thereof), shall make a report to the 1997 Regular Session of the Legislature setting forth recommended priorities for the construction and/or reconstruction and improvement of existing or new highways, roads, streets and bridges under the gaming counties state-assisted infrastructure improvement provisions of this chapter. The following routes shall be among those included by the department in its report to the Legislature.

Two (2) new north/south I-10 to U.S. 90 connection roadways in Harrison County consisting of:

(a) An east Harrison County connector in west Biloxi from I-10 to U.S. 90; and

(b) A west Harrison County connector linking I-10 to U.S. 90.

The report shall be filed on or before November 30, 1996, with the Secretary of the Senate, the Clerk of the House of Representatives, the Chairman of the Senate Highways and Transportation Committee and the Chairman of the House Transportation Committee.

SOURCES: Laws, 1996, ch. 497, § 2, eff from and after passage (approved April 11, 1996).

§ 65-39-3. Gaming Counties Bond Sinking Fund created; expenditures.

There is created in the State Treasury a special fund to be designated as the "Gaming Counties Bond Sinking Fund." Such monies as the Legislature directs or provides to be deposited into the fund may be expended, upon legislative appropriation, to pay the interest on and principal of bonds issued pursuant to Sections 65-39-5 through 65-39-33 or to pay the interest on and principal of notes issued under Section 31-17-127 for the purpose of providing funds for infrastructure projects under Section 65-39-1; provided, however, that if at any time the fund has a balance in excess of the amount needed to pay the interest on or the principal of any bonds or notes maturing in the next two (2) consecutive fiscal years, such excess may be transferred to the "Gaming Counties State Assisted Infrastructure Fund" to be disbursed solely upon the order of the Transportation Commission. Unexpended amounts remaining in the sinking fund at the end of the fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the sinking fund shall be deposited to the credit of the sinking fund.

SOURCES: Laws, 1994, ch. 557, § 15; Laws, 1995, ch. 523, § 4, eff from and after July 1, 1995.

§ 65-39-5. Issuance of general obligation bonds.

(1) The Mississippi Transportation Commission, at one time or from time to time, may declare by resolution the necessity for the issuance of general obligation bonds of the State of Mississippi to provide funds for all costs incurred or to be incurred by the Transportation Commission and the Mississippi Department of Transportation in constructing and reconstructing highways and performing the projects authorized under Section 65-39-1.

(2) The amount of bonds issued under Sections 65-39-5 through 65-39-33 shall not exceed Three Hundred Twenty-five Million Dollars ($325,000,000.00).

(3) Upon the adoption of a resolution by the Mississippi Transportation Commission declaring the necessity for the issuance of any part or all of the general obligation bonds authorized by this section, the Transportation Commission shall deliver a certified copy of its resolution or resolutions to the State Bond Commission. Upon receipt of any such resolution, the State Bond Commission, in its discretion, may act as the issuing agent, prescribe the form of the bonds, advertise for and accept bids, issue and sell the bonds so authorized to be sold, and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds.

SOURCES: Laws, 1994, ch. 557, § 23, eff from and after passage (approved April 5, 1994).

Cross References — Alternative to issuance of bonds under §§ 65-39-5 through 65-39-33 for funding infrastructure projects under § 65-39-1, see § 31-17-127.

§ 65-39-7. Payment of principal and interest; bond specifications.

The principal of and interest on the bonds authorized under Section 65-39-5 shall be payable in the manner provided in this section. Such bonds shall bear such date or dates, be in such denomination or denominations, bear interest at such rate or rates (not to exceed the limits set forth in Section 75-17-101), be payable at such place or places within or without the State of Mississippi, shall mature absolutely at such time or times, be redeemable before maturity at such time or times and upon such terms, with or without premium, shall bear such registration privileges, and shall be substantially in such form, all as shall be determined by resolution of the State Bond Commission.

SOURCES: Laws, 1994, ch. 557, § 24, eff from and after passage (approved April 5, 1994).

Cross References — Alternative to issuance of bonds under §§ 65-39-5 through 65-39-33 for funding infrastructure projects under § 65-39-1, see § 31-17-127.

§ 65-39-9. Signature on bonds; interest coupons.

The bonds authorized by Section 65-39-5 of this chapter shall be signed by the Chairman of the State Bond Commission, or by his facsimile signature, and the official seal of the State Bond Commission shall be affixed thereto, attested by the Secretary of the State Bond Commission. The interest coupons, if any, to be attached to such bonds may be executed by the facsimile signatures of such officers. Whenever any such bonds shall have been signed by the officials designated to sign the bonds who were in office at the time of such signing but who may have ceased to be such officers before the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the signatures of such officers upon such bonds and coupons shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until their delivery to the purchaser, or had been in office on the date such bonds may bear. However, notwithstanding anything herein to the contrary, such bonds may be issued as provided in the Registered Bond Act of the State of Mississippi.

SOURCES: Laws, 1994, ch. 557, § 25, eff from and after passage (approved April 5, 1994).

Cross References — Alternative to issuance of bonds under §§ 65-39-5 through 65-39-33 for funding infrastructure projects under § 65-39-1, see § 31-17-127.

Registered Bond Act, see § 31-21-1 through 31-21-7.

§ 65-39-11. Bonds and coupons are negotiable instruments.

All bonds and interest coupons issued under the provisions of Sections 65-39-5 through 65-39-33 have all the qualities and incidents of negotiable instruments under the provisions of the Mississippi Uniform Commercial Code, and in exercising the powers granted by Sections 65-39-5 through 65-39-33, the State Bond Commission shall not be required to and need not comply with the provisions of the Mississippi Uniform Commercial Code.

SOURCES: Laws, 1994, ch. 557, § 26, eff from and after passage (approved April 5, 1994).

Cross References — Alternative to issuance of bonds under §§ 65-39-5 through 65-39-33 for funding infrastructure projects under § 65-39-1, see § 31-17-127.

Negotiable instruments under the Mississippi Uniform Commercial Code, see §§ 75-3-101 et seq.

§ 65-39-13. Sale and form of bonds.

The State Bond Commission shall act as the issuing agent for the bonds authorized under Sections 65-39-5 through 65-39-33, prescribe the form of the bonds, advertise for and accept bids, issue and sell the bonds so authorized to be sold, pay all fees and costs incurred in such issuance and sale, and do all other things necessary and advisable in connection with the issuance and sale of the bonds. The State Bond Commission may pay the costs that are incident to the sale, issuance and delivery of the bonds authorized under Sections 65-39-5 through 65-39-33 from the proceeds derived from the sale of the bonds. The State Bond Commission shall sell such bonds on sealed bids at public sale, and for such price as it may determine to be for the best interest of the State of Mississippi, but no such sale may be made at a price less than par plus accrued interest to the date of delivery of the bonds to the purchaser. All interest accruing on such bonds so issued shall be payable semiannually or annually; however, the first interest payment may be for any period of not more than one (1) year.

Notice of the sale of any such bond shall be published at least one (1) time, not less than ten (10) days before the date of sale, and shall be so published in one or more newspapers published or having a general circulation in the City of Jackson, Mississippi, and in one or more other newspapers or financial journals with a national circulation, to be selected by the State Bond Commission.

The State Bond Commission, when issuing any bonds under the authority of Sections 65-39-5 through 65-39-33, may provide that bonds, at the option of the State of Mississippi, may be called in for payment and redemption at the call price named therein and accrued interest on such date or dates named therein.

SOURCES: Laws, 1994, ch. 557, § 27, eff from and after passage (approved April 5, 1994).

Cross References — Alternative to issuance of bonds under §§ 65-39-5 through 65-39-33 for funding infrastructure projects under § 65-39-1, see § 31-17-127.

§ 65-39-15. Bonds are general obligations of state.

The bonds issued under the provisions of Sections 65-39-5 through 65-39-33 are general obligations of the State of Mississippi, and for the payment thereof the full faith and credit of the State of Mississippi is irrevocably pledged. Monies in the Gaming Counties Sinking Bond Fund, created in Section 65-39-3, shall be expended to pay the interest on, and principal of, the bonds issued under Section 65-39-5. If the amount in the sinking fund is insufficient to pay the interest on, and principal of, such bonds as they become due, then the deficiency shall be paid by the State Treasurer from any funds in the State Treasury not otherwise appropriated. All such bonds shall contain recitals on their faces substantially covering the provisions of this section.

SOURCES: Laws, 1994, ch. 557, § 28, eff from and after passage (approved April 5, 1994).

Cross References — Alternative to issuance of bonds under §§ 65-39-5 through 65-39-33 for funding infrastructure projects under § 65-39-1, see § 31-17-127.

§ 65-39-17. Disposition of proceeds of sale of bonds or notes.

(1) The proceeds of the bonds issued under Section 65-39-5 and the proceeds of notes issued under Section 31-17-127 for the purpose of providing funds for infrastructure projects under Section 65-39-1 shall be deposited in a special fund that is created in the State Treasury to be known as the "Gaming Counties State Assisted Infrastructure Fund."

(2) Unexpended amounts remaining in the special fund created in subsection (1) of this section at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in such special fund shall be deposited to the credit of the special fund.

(3) Upon the issuance and sale of bonds under the provisions of Sections 65-39-5 through 65-39-33 or notes under Section 31-17-127 for the purpose of providing funds for infrastructure projects under Section 65-39-1, the State Bond Commission shall transfer the proceeds of any such sale or sales to the special fund created in subsection (1) of this section. The proceeds of such bonds or notes shall be disbursed solely upon the order of the Transportation Commission, and shall be issued under such restrictions, if any, as may be contained in the resolution providing for the issuance of the bonds or notes.

SOURCES: Laws, 1994, ch. 557, § 29; Laws, 1995, ch. 523, § 3, eff from and after July 1, 1995.

Cross References — Alternative to issuance of bonds under §§ 65-39-5 through 65-39-33 for funding infrastructure projects under § 65-39-1, see § 31-17-127.

§ 65-39-19. Issuance of bonds.

The bonds authorized under Sections 65-39-5 through 65-39-33 may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things which are specified or required by Sections 65-39-5 through 65-39-33. Any resolution providing for the issuance of bonds under the provisions of Sections 65-39-5 through 65-39-33 shall become effective immediately upon its adoption by the State Bond Commission, and any such resolution may be adopted at any regular or special meeting of the State Bond Commission by a majority of its members.

SOURCES: Laws, 1994, ch. 557, § 30, eff from and after passage (approved April 5, 1994).

Cross References — Alternative to issuance of bonds under §§ 65-39-5 through 65-39-33 for funding infrastructure projects under § 65-39-1, see § 31-17-127.

§ 65-39-21. Validation of bonds; notice.

The bonds authorized under the authority of Sections 65-39-5 through 65-39-33 may be validated in the Chancery Court of the First Judicial District of Hinds County, Mississippi, in the manner and with the force and effect provided by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The notice to taxpayers required by such statutes shall be published in a newspaper published or having a general circulation in the City of Jackson, Mississippi.

SOURCES: Laws, 1994, ch. 557, § 31, eff from and after passage (approved April 5, 1994).

Cross References — Alternative to issuance of bonds under §§ 65-39-5 through 65-39-33 for funding infrastructure projects under § 65-39-1, see § 31-17-127.

§ 65-39-23. Protection and enforcement of bond holders' rights.

Any holder of bonds issued under the provisions of Sections 65-39-5 through 65-39-33 or of any of the interest coupons pertaining thereto may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce all rights granted under Sections 65-39-5 through 65-39-33, or under such resolution, and may enforce and compel performance of all duties required by Sections 65-39-5 through 65-39-33 to be performed, in order to provide for the payment of bonds and interest thereon.

SOURCES: Laws, 1994, ch. 557, § 32, eff from and after passage (approved April 5, 1994).

Cross References — Alternative to issuance of bonds under §§ 65-39-5 through 65-39-33 for funding infrastructure projects under § 65-39-1, see § 31-17-127.

§ 65-39-25. Bonds are legal investments and legal securities.

All bonds issued under the provisions of Sections 65-39-5 through 65-39-33 shall be legal investments for trustees and other fiduciaries, and for savings banks, trust companies and insurance companies organized under the laws of the State of Mississippi, and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and political subdivisions for the purpose of securing the deposit of public funds.

SOURCES: Laws, 1994, ch. 557, § 33, eff from and after passage (approved April 5, 1994).

Cross References — Alternative to issuance of bonds under §§ 65-39-5 through 65-39-33 for funding infrastructure projects under § 65-39-1, see § 31-17-127.

§ 65-39-27. Bonds and income tax exempt.

Bonds issued under the provisions of Sections 65-39-5 through 65-39-33 and income therefrom shall be exempt from all taxation in the State of Mississippi.

SOURCES: Laws, 1994, ch. 557, § 34, eff from and after passage (approved April 5, 1994).

Cross References — Alternative to issuance of bonds under §§ 65-39-5 through 65-39-33 for funding infrastructure projects under § 65-39-1, see § 31-17-127.

§ 65-39-29. Use of bond proceeds.

The proceeds of the bonds issued under the provisions of Sections 65-39-5 through 65-39-33 shall be used solely for the purposes herein provided, including the costs incident to the issuance and sale of such bonds.

SOURCES: Laws, 1994, ch. 557, § 35, eff from and after passage (approved April 5, 1994).

Cross References — Alternative to issuance of bonds under §§ 65-39-5 through 65-39-33 for funding infrastructure projects under § 65-39-1, see § 31-17-127.

§ 65-39-31. Officials not to benefit from issuance of bonds.

No elected or appointed official shall derive or receive, directly or indirectly, any income, compensation or pecuniary benefit, as a result of such elected or appointed official's duties under Sections 65-39-5 through 65-39-33 that provides for the issuance of bonds by the state, or any political subdivision thereof, contrary to the provisions of Section 109, Mississippi Constitution of 1890, or Article 3, Chapter 4, Title 25, Mississippi Code of 1972.

SOURCES: Laws, 1994, ch. 557, § 36, eff from and after passage (approved April 5, 1994).

Cross References — Alternative to issuance of bonds under §§ 65-39-5 through 65-39-33 for funding infrastructure projects under § 65-39-1, see § 31-17-127.

§ 65-39-33. Chapter gives complete authority; effect on other laws.

Sections 65-39-5 through 65-39-33 shall be deemed to be full and complete authority for the exercise of the powers granted, but Sections 65-39-5 through 65-39-33 shall not be deemed to repeal or to be in derogation of any existing law of this state.

SOURCES: Laws, 1994, ch. 557, § 37, eff from and after passage (approved April 5, 1994).

Cross References — Alternative to issuance of bonds under §§ 65-39-5 through 65-39-33 for funding infrastructure projects under § 65-39-1, see § 31-17-127.

§ 65-39-35. Effective date of reduction in certain taxes and fees.

The date upon which the taxes and fees levied and charged under the provisions of Sections 27-55-11, 27-57-37, 27-59-11, 27-19-43, 27-19-309, 27-65-75, and Sections 27-55-519 and 27-55-521 are reduced under such sections shall be the first day of the month immediately following the date upon which:

(a) The Mississippi Transportation Commission certifies to the State Tax Commission that:

(i) The highway program created under Section 65-3-97 and the Gaming Counties Infrastructure Program created under Section 65-39-3, are completed and no funds are any longer necessary to pay the costs of such programs; and

(ii) The Mississippi Transportation Commission will not declare the necessity for additional borrowings under Section 65-9-27, or for additional bonds under Sections 65-39-5 through 65-39-33; and

(b) The State Treasurer certifies:

(i) That the amount on deposit in the Gaming Counties Bond Sinking Fund, together with earnings on investments to accrue to such fund, is equal to or greater than the aggregate of the entire principal, redemption premium (if any), and interest due and to become due (until the final maturity date or earlier scheduled redemption date) on all general obligation bonds issued under Sections 65-39-5 through 65-39-33; and

(ii) That all principal, interest, cost and other expenses for all bonds, notes or other borrowings under Section 65-9-27 and Section 31-17-127 (including redemption notes, if any) have been paid and are completely satisfied.

SOURCES: Laws, 1994, ch. 557, § 40; Laws, 1999, ch. 461, § 46; Laws, 1999, ch. 575, § 8; Laws, 2002, ch. 582, § 9, eff from and after July 1, 2002.

Editor's Note — Section 27-3-4 provides that the terms " 'Mississippi State Tax Commission,' 'State Tax Commission,' "Tax Commission' and 'commission' appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue."

Joint Legislative Committee Note — Section 46 of ch. 461, Laws of 1999, effective from and after July 1, 1999, amended this section. Section 8 of ch. 575, Laws of 1999, effective from and after July 1, 1999, also amended this section. As set out above, this section reflects the language of Section 8 of ch. 575, Laws of 1999, pursuant to Section 1-3-79 which provides that whenever the same section of law is amended by different bills during the same legislative session, and the effective dates of the amendments are the same, the amendment with the latest approval date shall supersede all other amendments to the same section approved on an earlier date.

§ 65-39-37. State matching share for federal Special Category Projects.

The Mississippi Transportation Commission may require the Mississippi Department of Transportation to provide the twenty percent (20%) state matching share and federal nonparticipating costs for Special Category Projects as provided for in Public Law 102-240 (the Intermodal Surface Transportation Efficiency Act of 1991). In addition to any other authorized use, such funds may be expended for Special Category Projects within Public Law 102-240 as set forth in Section 1103 "High Cost Bridge Projects," Section 1104 "Congestion Relief Projects," Section 1105 "High Priority Corridors on National Highway System," Section 1106 "Rural and Urban Access Projects," Section 1107 "Innovative Projects," and Section 1108 "Priority Intermodal Projects." The department shall use funds obtained pursuant to this section for the specific purpose of facilitating the use of additional eighty percent (80%) federal funds provided to the Mississippi Department of Transportation from the Congress of the United States throughout each of the five (5) Congressional Districts of the State of Mississippi. The department also shall utilize any funds obtained pursuant to this section to provide the state matching share and nonparticipating share for preliminary engineering and right-of-way acquisition work for all projects so authorized and shall provide the state share and nonparticipating portion for all projects for which the federal share of the construction is provided through funds not within the normal annual apportionment of the Highway Trust Fund to the State of Mississippi.

SOURCES: Laws, 1994, ch. 557, § 43, eff from and after July 1, 1994.

CHAPTER 41

Mississippi Scenic Byways

Article 1. Mississippi Scenic Byways Program 65-41-1
Article 3. Designations of Official Mississippi Scenic Byways 65-41-51

Article 1.

Mississippi Scenic Byways Program.

Sec.
65-41-1. Short title.
65-41-3. Definitions.
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65-41-11. Scenic Byways Development and Maintenance Fund.
65-41-13. Lawful use or activity related to scenic byway area not restricted; local governments not mandated to participate.

§ 65-41-1. Short title.

This chapter shall be known and may be cited as the "Mississippi Scenic Byways Program."

SOURCES: Laws, 2002, ch. 531, § 2, eff from and after July 1, 2002.

§ 65-41-3. Definitions.

As used in this chapter, the following terms have the meanings ascribed to them in this section unless the context clearly requires otherwise:

(a) "Corridor" means a highway, road or street right-of-way and the adjacent area that is visible from and extends along the highway, road or street;

(b) "Department" means the Mississippi Department of Transportation;

(c) "Intrinsic qualities," as related to scenic byways, include:

(i) Scenic: Beauty, whether natural or man-made. The quality of the feature is measured by how memorable, distinctive, unique, uninterrupted and unified a scenic byway is;

(ii) Natural: Minimal disturbance of the natural ecological features that are associated with the region;

(iii) Historic: Landscapes, buildings, structures or other visual evidence of the past other than just a site;

(iv) Cultural: Visual evidence of the unique customs, traditions, folklore or rituals of a currently existing human group;

(v) Archeological: Visual evidence of the unique customs, traditions, folklores or rituals of a no longer existing human group;

(vi) Recreational: Use of a scenic byway or its corridor for recreational activities like jogging, biking, roadside picnics or for direct access to recreational sites like campgrounds, lakes, etc.;

(d) "Program" means the Mississippi Scenic Byways Program created under the provisions of this chapter;

(e) "Scenic byway" means a public highway, road or street, including the corridor through which it passes, that has been designated as a scenic byway in order to develop, promote and maintain its intrinsic qualities.

SOURCES: Laws, 2002, ch. 531, § 3, eff from and after July 1, 2002.

§ 65-41-5. Administration by Department of Transportation.

The Mississippi Department of Transportation, upon approval of the Mississippi Transportation Commission, may administer a Mississippi Scenic Byways Program. Under the program, the department, with assistance from the Scenic Byways Advisory Committee created under Section 65-41-7, shall develop, adopt and implement a scenic byways corridor management plan for the state. The plan shall be consistent with the provisions of this chapter and with guidelines established by federal law, and shall specify actions, procedures, controls, operational practices and administrative strategies necessary to govern the selection, nomination and declaration of scenic byways and to ensure that highways, roads, streets and corridors designated as scenic byways are properly managed and that their intrinsic qualities are maintained.

SOURCES: Laws, 2002, ch. 531, § 4, eff from and after July 1, 2002.

§ 65-41-7. Advisory committee; corridor management plan.

(1) There is created a Scenic Byways Advisory Committee to assist the department in the development and administration of the Mississippi Scenic Byways Program, the adoption of a corridor management plan, the review of scenic byway applications and the selection and nomination of highways, roads and streets as scenic byways. The committee shall consist of:

(a) Two (2) members from each of the following entities, with one (1) member from each entity being the executive director of that entity, or his or her designee, and the other member being a member of that entity selected by its executive director:

(i) The Mississippi Department of Transportation;

(ii) The Mississippi Development Authority, Division of Tourism Development;

(iii) The Keep Mississippi Beautiful/People Against Litter Association;

(iv) The Mississippi Association of Supervisors;

(v) The Mississippi Outdoor Advertising Association;

(vi) The Mississippi Retail Association;

(vii) The Mississippi Tourism Association; and

(viii) The Mississippi Municipal League; and

(b) Three (3) members to be selected by the Mississippi Transportation Commission, one (1) from each commissioner's district.

(2) The corridor management plan adopted by the committee shall use best management practices to maintain the intrinsic qualities of highways, roads and streets designated as scenic byways while ensuring the rights of landowners, including riparian owners, to continue existing agriculture, forestry, water supply, recreational, residential, commercial and industrial uses, and any other uses of land and water, identified in the plan. The department may enter into agreements for the mutual management of scenic byways with counties, municipalities and other political subdivisions of the state, state and federal agencies and private landowners or businesses. The plan shall ensure that landowners have input into management practices of any land or water that is designated as a scenic byway or that is included within a scenic byway corridor. Land placed in the program shall not be obtained by eminent domain. A landowner's decision to participate in the program shall be entirely voluntary and a participating landowner may terminate his participation at any time without liability, criminally or civilly, for his subsequent failure to participate. Counties, municipalities and other political subdivisions of the state may participate in the program as landowners in the same manner as private landowners. For the purposes of carrying out the intent of this chapter, counties, municipalities and other political subdivisions of the state, in addition to and supplemental to any other powers authorized by law for the acquisition of real property, may acquire by donation or purchase, but not by eminent domain, interests in real property.

(3) The plan adopted under this chapter shall be in compliance with all applicable Federal Highway Administration rules, regulations and policies regarding outdoor advertising on or along a highway, road or street designated as a scenic byway. Nothing in this chapter shall be interpreted as amending or limiting any county or municipal zoning or land use ordinance unless the county or municipality has authorized the amendment according to the procedure provided for in its ordinance.

(4) A corridor management plan may not become effective until a draft of the plan has been submitted for review and recommendation to the Transportation Committee of the House of Representatives and the Highways and Transportation Committee of the Senate.

SOURCES: Laws, 2002, ch. 531, § 5, eff from and after July 1, 2002.

§ 65-41-9. Interlocal participation.

(1) The corridor management plan adopted under this chapter shall establish criteria, policies and procedures that will permit county boards of supervisors, municipal governing authorities and the Mississippi Department of Transportation to submit to the advisory committee applications for highways, roads and streets under the governmental entity's respective jurisdiction for nomination as a scenic byway. Nothing in the corridor management plan

shall be interpreted as amending or limiting any county or municipal zoning or land use ordinances unless the county or municipality has authorized the amendment according to the procedure provided for in its ordinance. The corridor management plan shall authorize county boards of supervisors and municipal governing authorities to submit one or more plans for one or more highways, roads or streets to be designated a scenic byway that may have management requirements that are more strict than the department's corridor management plan. Such plans for a scenic byway submitted by a county or municipality shall describe the additional management requirements proposed for application to the scenic byway and, if approved by the department, shall apply only to the approved scenic byway. In carrying out the purposes of this chapter and the specific plans for scenic byways, counties and municipalities may include in such specific plans for the corridor (including, but not limited to, medians) provisions for planting and replanting of trees, shrubs and flowers; vegetative buffers, design guidelines and limitations for landscaping, signage and lighting; and noise guidelines and limitations. The authority granted to counties and municipalities under this subsection is supplementary and in addition to any other authority that a county or municipality may have under law.

(2) After receipt of an application, the advisory committee shall hold a public meeting in the geographic area where the proposed scenic byway is located to receive comments and recommendations from the public. Notice of the meeting, along with a description of the highway, road or street proposed as a scenic byway shall be given once each week for at least three (3) consecutive weeks by publication in some newspaper having a general circulation in the county where the proposed scenic byway is located. Following the public meeting, the committee may nominate the highway, road or street as a scenic byway if it is eligible and meets the guidelines established under the program. A highway, road or street that has been nominated by the committee as a scenic byway shall be submitted by the advisory committee to the Legislature at the next regular session of the Legislature following its nomination. A highway, road or street that has been nominated as a scenic byway may be designated as an official Mississippi Scenic Byway only by its introduction and passage as a legislative bill.

(3) The advisory committee shall review each designated scenic byway not less often than once each two (2) years to make sure that the program participants are meeting their obligations under the plan and that the byway continues to possess the intrinsic qualities and meet the criteria which supported its initial designation. If the committee finds that a designated byway is not being maintained according to established standards or that it has lost its necessary intrinsic qualities, the committee shall report its findings to the Legislature and the Legislature, by legislation, may de-designate the byway.

SOURCES: Laws, 2002, ch. 531, § 6, eff from and after July 1, 2002.

§ 65-41-11. Scenic Byways Development and Maintenance Fund.

(1) The department may accept donations, bequests, gifts, grants, appropriations of federal money, in-kind contributions and things of value from any source, public or private, including individuals, organizations and federal, state and local governmental bodies, for the purpose of establishing and maintaining the Mississippi Scenic Byways Program. All such money so received by the department shall be deposited into a special fund that is created in the State Treasury to be designated as the "Scenic Byways Development and Maintenance Fund." Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund.

(2) Monies in the Scenic Byways Development and Maintenance Fund may be expended, upon legislative appropriation, for the following purposes:

(a) To plan, design and develop the Mississippi Scenic Byways Program;

(b) To develop and implement a corridor management plan for the purposes of maintaining the intrinsic qualities of scenic byways and providing accommodation of increased tourism and development of related amenities;

(c) To make safety improvements to Mississippi scenic byways, a National Scenic Byway or an All-American Road to the extent that the improvements are necessary to accommodate increased traffic and changes in the types of vehicles using the highway, road or street as a result of the designation;

(d) To construct along scenic byways facilities for use by pedestrians and bicyclists, rest areas, turnouts, highway shoulder improvements, passing lanes, overlooks and interpretive facilities;

(e) To make improvements to scenic byways that will enhance access to recreation areas, including water-related recreations;

(f) To protect the intrinsic qualities of areas adjacent to scenic byways;

(g) To develop and provide tourist information to the public, including interpretive information about scenic byways;

(h) To develop and implement scenic byway marketing programs; and

(i) To match monies made available from the federal government for the establishment and maintenance of the Scenic Byways Program.

SOURCES: Laws, 2002, ch. 531, § 7, eff from and after July 1, 2002.

§ 65-41-13. Lawful use or activity related to scenic byway area not restricted; local governments not mandated to participate.

(1) This chapter shall not prohibit, restrict or otherwise affect any existing or future lawful use or activity in or related to a scenic byway area. This chapter also shall not prohibit, restrict or otherwise affect the operation,

maintenance or new construction of any facility, road, railroad, bridge, utility, pipeline, crossing or any other structure in or related to a scenic byway area. If there is any conflict between this section and any other provision of this chapter, this section shall control.

(2) Nothing in this chapter shall mandate local governments to participate in the program, and a local governmental entity may terminate participation in the program at any time by resolution duly adopted and entered upon its minutes.

SOURCES: Laws, 2002, ch. 531, § 8, eff from and after July 1, 2002.

ARTICLE 3.

DESIGNATIONS OF OFFICIAL MISSISSIPPI SCENIC BYWAYS.

SEC.	
65-41-51.	"Grand Gulf-Raymond Scenic Byway" designated.
65-41-53.	"Lower Mississippi Historic Scenic Byway" designated.
65-41-55.	"Mississippi Delta Great River Road Scenic Byway" designated.
65-41-57.	"Biloxi-D'Iberville Scenic Expressway" designated.
65-41-59.	"Highway 605 Tradition Scenic Parkway" designated.
65-41-61.	"Beach Boulevard Scenic Byway" designated.
65-41-63.	"Scenic Byways to Space" designated.
65-41-65.	"Brice's Crossroads Battlefield-Chief Tishomingo Scenic Byway" designated.

§ 65-41-51. "Grand Gulf-Raymond Scenic Byway" designated.

The following highways, roads or streets located in the State of Mississippi are hereby designated as an official Mississippi Scenic Byway to be known as the "Grand Gulf-Raymond Scenic Byway," pursuant to Section 65-41-1 et seq.:

Beginning at the Grand Gulf Military Monument on the Mississippi River then east along the historic Back Grand Gulf Road to Frasier Road, following east along Frasier Road to Y-Camp Road, following east along Y-Camp Road to Ingleside-Karnac Ferry Road through the community of Ingleside to Highway 61, then the route continues one-half (½) mile north of Highway 61, eastward along Willows Road to the community of Willows, then northeastward along the Old Port Gibson Road terminating at the Raymond Military Park at the City of Raymond.

SOURCES: Laws, 2004, ch. 316, § 1, eff from and after passage (approved Apr. 12, 2004.)

§ 65-41-53. "Lower Mississippi Historic Scenic Byway" designated.

(1) The following highways, roads and streets located in the State of Mississippi are hereby designated as an official Mississippi Scenic Byway to be known as the "Lower Mississippi Historic Scenic Byway," pursuant to Section 65-41-1 et seq.:

Begin on U.S. Highway 61 at the Issaquena County line and travel south along U.S. Highway 61 in Warren County, to Business 61 (North Washington Street); travel north on Washington Street to downtown Vicksburg. Continue traveling on Washington Street as it merges into Warrington Road; travel Warrington Road to U.S. Highway 61; continue on U.S. Highway 61 South to Claiborne County.

Upon entering Claiborne County, continue traveling south on U.S. Highway 61. At Grand Gulf Road, travel west to Grand Gulf Military Park. Turn on Grand Gulf Road to U.S. Highway 61. Travel south on U.S. Highway 61 to Port Gibson. U.S. Highway 61 at Port Gibson is also known as "Church Street." At the intersection of Church Street and Orange Street, travel west on Orange Street, past the Claiborne County Courthouse to Market Street. Travel south on Market Street four (4) blocks, past Mississippi Cultural Crossroads, Matt Ross Administrative Building, Harriette Pearson Memorial Library and Meyer Marx Building until you reach Carroll Street. Return to Church Street and travel south on U.S. Highway 61 to Jefferson County. This corridor also includes Rodney Road, which is Carroll Street (west of Market Street). Travel west on Rodney Road, past the Shaifer House and grounds; travel past the Ruins of Windsor where Rodney Road merges into Highway 552. Travel past Alcorn State University on Highway 552 back to U.S. Highway 61.

Travel south on U.S. Highway 61 until you reach Adams County and continue on U.S. Highway 61 through the City of Natchez to U.S. Highway 61/84 Interchange; travel west on U.S. Highway 84 to the Natchez Intermodal Center at the Mississippi River Bridge. Return to U.S. Highway 61/84 interchange and travel south on U.S. Highway 61 through the southern portion of Natchez to Wilkinson County. Traveling south on U.S. Highway 61 through Woodville to the Louisiana state line. This terminates the Lower Mississippi Historic Byway.

(2) Outdoor advertising as identified in the Lower Mississippi Historic Byway Corridor Management Plan shall be allowed on U.S. Highway 61 and U.S. Highway 84 within the corporate limits of the impacted municipalities along the byway subject to the zoning and signage statutes and ordinances of the state and the impacted municipalities. Outdoor advertising outside of a municipality's corporate limit must be in compliance with applicable local, state and federal guidelines.

SOURCES: Laws, 2004, ch. 544, § 1, eff from and after passage (approved May 13, 2004.)

§ 65-41-55. "Mississippi Delta Great River Road Scenic Byway" designated.

(1) The following highways, roads or streets located in the State of Mississippi are hereby designated as an official Mississippi Scenic Byway to be known as the "Mississippi Delta Great River Road Scenic Byway," pursuant to Section 65-41-1 et seq.:

Begin at the Tennessee state line and travel south on U.S. Highway 61 to the intersection of Mississippi Highway 161. Continue on Mississippi Highway 161 to the Town of Walls, Mississippi, and travel south on Old Highway 61 through DeSoto County and Tunica County to the intersection with U.S. Highway 49 near Lula, Mississippi. Continue northwest on U.S. Highway 49 to the intersection with Mississippi Highway 1, and travel south along Mississippi Highway 1. Continue south along Mississippi Highway 1 through Coahoma County, Bolivar County, Washington County, east along Mississippi Highway 1 at Sharkey County and then south along Mississippi Highway 1 at Issaquena County. Continue on Mississippi Highway 1 south to the intersection of U.S. Highway 61 at Mississippi Highway 1 at Onward; continue south along U.S. Highway 61 to the Issaquena/Warren County line. This terminates the "Mississippi Delta Great River Road Scenic Byway."

(2) Outdoor advertising as identified in the Mississippi Delta Great River Road Scenic Byway Corridor Management Plan shall be allowed on Mississippi Highway 1 and U.S. Highway 61 within the corporate limits of the impacted municipalities along the byway subject to the zoning and signage statutes and ordinances of the state and the impacted municipalities. Outdoor advertising outside of a municipality's corporate limit must be in compliance with applicable local, state and federal guidelines.

SOURCES: Laws, 2004, ch. 578, § 1; Laws, 2009, ch. 311, § 1; Laws, 2009, ch. 361, § 1, eff from and after passage (approved Mar. 17, 2009.)

Joint Legislative Committee Note — Section 1 of ch. 311, Laws of 2009, effective from and after July 1, 2009 (approved March 3, 2009), amended this section. Section 1 of ch. 361, Laws of 2009, effective upon approval (approved March 17, 2009), also amended this section. As set out above, this section reflects the language of Section 1 of ch. 311, Laws of 2009, pursuant to Section 1-3-79 which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect on an earlier date.

§ 65-41-57. "Biloxi-D'Iberville Scenic Expressway" designated.

The following highways, roads or streets located in the State of Mississippi are hereby designated as an official Mississippi Scenic Byway to be known as the " Biloxi-D'Iberville Scenic Expressway " pursuant to Section 65-41-1 et seq. as it reaches completion:

Beginning at the intersection of Highway 67 and Interstate I-10 and travel northerly along Highway 67 to the intersection of Highway 67 and U.S. Highway 49.

SOURCES: Laws, 2007, ch. 307, § 1; Laws, 2009, ch. 541, § 1, eff from and after passage (approved Apr. 15, 2009.)

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in the second paragraph of the section. The word "the" was inserted preceding "intersection" so that "Beginning at intersection of Highway 67" will read as "Beginning at the intersection of Highway 67." The Joint Committee ratified the correction at its August 5, 2008, meeting.

§ 65-41-59. "Highway 605 Tradition Scenic Parkway" designated.

The following highways, roads or streets located in the State of Mississippi are hereby designated as an official Mississippi Scenic Byway to be known as the "Highway 605 Tradition Scenic Parkway" pursuant to Section 65-41-1 et seq. as it reaches completion:

Beginning at the intersection of Highway 605 and U.S. Highway 90 and travel northerly along Highway 605 to the intersection of Highway 605 and Highway 67.

SOURCES: Laws, 2007, ch. 307, § 2; Laws, 2008, ch. 483, § 1, eff from and after passage (approved Apr. 14, 2008.)

§ 65-41-61. "Beach Boulevard Scenic Byway" designated.

The following highways, roads or streets located in the State of Mississippi are hereby designated as an official Mississippi Scenic Byway to be known as the "Beach Boulevard Scenic Byway" pursuant to Section 65-41-1 et seq.:

Beginning at Cedar Point in Hancock County and traveling southerly along the coastline to Bayou Cadet in Hancock County.

SOURCES: Laws, 2011, ch. 317, § 1, eff from and after passage (approved Mar. 3, 2011.)

§ 65-41-63. "Scenic Byways to Space" designated.

The following highways, roads or streets located in the State of Mississippi are hereby designated as an official Mississippi Scenic Byway to be known as the "Scenic Byways to Space" pursuant to Section 65-41-1 et seq.:

(a) To be known as "NASA Scenic Byway to Space": Beginning at the intersection of the 4-lane portion of Mississippi Highway 607 with Mississippi Highway 604 and continuing northerly on Mississippi Highway 607 to the south gate of Stennis Space Center as well as exiting the north gate of Stennis Space Center on Mississippi Highway 607 to the edge of Texas Flat Road.

(b) To be known as "Pearlington Scenic Byway to Space": Beginning at the intersection of the 2-lane portion of U.S. Highway 90 with Mississippi Highway 607 and continuing southwesterly on U.S. Highway 90 to the edge of the buffer zone near the Town of Pearlington.

(c) To be known as "Westonia Scenic Byway to Space": Beginning at the intersection of Mississippi Highway 604 with Mississippi Highway 607 and continuing southerly on Mississippi Highway 604 to the edge of the buffer zone near the Town of Pearlington.

(d) To be known as "Logtown Scenic Byway to Space": Beginning at the intersection of Logtown Road with Mississippi Highway 604 and continuing westerly on Logtown Road to the extinct Town of Logtown on the East Pearl River.

(e) To be known as "Napoleon Scenic Byway to Space": Beginning at the intersection of Old Mississippi Highway 43 and Mississippi Highway 607 north of Interstate 10 and continuing southerly to the south gate of Stennis Space Center, and including a small portion of road that comes off of Old Highway 43 and goes into the heart of what was once the Town of Napoleon.

(f) To be known as "Santa Rosa Scenic Byway to Space": Beginning at the intersection of Texas Flat Road with Mississippi Highway 607 and continuing east on Texas Flat Road to the edge of the buffer zone next to the runway of Stennis International Airport.

SOURCES: Laws, 2011, ch. 317, § 2, eff from and after passage (approved Mar. 3, 2011.)

§ 65-41-65. "Brice's Crossroads Battlefield-Chief Tishomingo Scenic Byway" designated.

The following highways, roads or streets located in the State of Mississippi are hereby designated as an official Mississippi Scenic Byway to be known as the "Brice's Crossroads Battlefield-Chief Tishomingo Scenic Byway" pursuant to Section 65-41-1 et seq.:

> Beginning at the Brice's Crossroads Visitors and Interpretive Center and traveling northerly on Grisham Street to its intersection with Mississippi Highway 370, then traveling westerly on Mississippi Highway 370 to its intersection with County Road 833, then traveling southeasterly on County Road 833 to its intersection with County Road 503, then traveling intersection with County Road 503, then traveling southerly on County Road 503 to its intersection with Mississippi Highway 348, then traveling easterly on Mississippi Highway 348 to its intersection with Mississippi Highway 145.

SOURCES: Laws, 2011, ch. 314, § 1, eff from and after passage (approved Mar. 3, 2011.)

CHAPTER 43

Toll Roads and Toll Bridges

Toll Roads and Toll Bridges 65-43-1
Toll Evasion 65-43-71

TOLL ROADS AND TOLL BRIDGES

Sec.
65-43-1. Authority of Transportation Commission, counties and municipalities to construct, operate and maintain new toll roads or toll bridges.
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§ 65-43-1. Authority of Transportation Commission, counties and municipalities to construct, operate and maintain new toll roads or toll bridges.

The Mississippi Transportation Commission, county boards of supervisors and/or the governing authorities of municipalities (hereinafter referred to as governmental entities), in their discretion, may construct, operate and maintain, individually or jointly with other governmental entities, one or more new toll roads or toll bridges in the state for motor vehicle traffic, including toll booths and related facilities, at those locations where an alternate untolled route exists. All such highways, pavement, bridges, drainage-related structures and other infrastructure comprising the projects shall be built and maintained in accordance with not less than the minimum highway design, construction and maintenance standards established by the contracting governmental entity for such highways, infrastructure and facilities.

SOURCES: Laws, 2007, ch. 582, § 1, eff July 18, 2007 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the addition of this section); Laws, 2012, ch. 537, § 1, eff from and after July 1, 2012.

Editor's Note — On July 18, 2007, the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965 to the addition of this section by Laws of 2007, ch. 582.

Amendment Notes — The 2012 amendment deleted "and along only" preceding "those locations" in the first sentence, and deleted the former second sentence, which read: "An existing road or any segment of an existing road shall not be part of a new toll road, and the reconstruction or repair of an existing road shall not be tolled."

Cross References — Exemption of governmental entity from liability for claims arising out of the construction, maintenance or operation of any roadway or bridge project entered into under the provisions of this section, see § 11-46-9.

Contracts entered into under the provisions of this sectionexempt from § 31-7-13 bidding requirements, see § 31-7-13.

Provisions of § 65-1-85 not to be construed to prohibit the commission from awarding or entering into contracts for design, construction and financing of toll roads and toll bridges as provided under this section, see § 65-1-85.

Provisions of § 65-3-1 prohibiting collection of tolls on state highways inapplicable to toll roads or toll bridges built or operated under the authority of this section, see § 65-3-1.

§ 65-43-2. Legislative findings.

The Legislature finds and declares as a matter of public policy that, for the benefit of the people of this state, it is essential to foster, promote and provide public infrastructure, including toll roads and bridges.

SOURCES: Laws, 2008, 1st Ex Sess, ch. 44, § 1, eff from and after passage (approved June 2, 2008.)

§ 65-43-3. Authority of Transportation Commission, counties and municipalities to contract with companies for financing, constructing, operating or maintaining toll roads or toll bridges; requests for proposals; rights and responsibilities of parties to contracts; collection of tolls; applicability of traffic regulations to motor vehicles operated on toll roads and toll bridges; immunity from liability.

(1)(a) In addition to and as an alternative to any other authority granted by law, including, but not limited to, Section 65-43-1, any governmental entities, as defined in Section 65-43-1, in their discretion, may contract, individually or jointly with other governmental entities, with any persons, corporations, partnerships or other businesses licensed to do business in the State of Mississippi (hereinafter referred to as "companies" or "company") for the purpose of designing, financing, constructing, operating and maintaining one or more new toll roads or toll bridges in the state for motor vehicle traffic, including tollbooths and related facilities, at those locations where an alternate untolled route exists. Such contracts may provide that the governmental entities may grant certain rights (including, but not limited to, the right to exclusively operate and maintain) in land held by the governmental entities, whether in fee simple, as an easement or other interest, to a company for design, construction, operation and/or maintenance of roadways, highways or bridges for motor vehicle traffic, tollbooths and related facilities. All such highways, pavement, bridges, drainage-related structures and other infrastructure comprising the projects shall be built and maintained in accordance with not less than the minimum highway design, construction and maintenance standards established by the contracting governmental entity for such highways, infrastructure and facilities. The contracting governmental entity shall conduct periodic inspections of any such project throughout the term of the contract to ensure compliance by the company. Failure of a company to comply with minimum standards established for the project by the contracting governmental entity shall constitute a breach and shall subject the company to liability on its bond or security or to rescission of the contract in accordance with the terms and provisions of the contract.

(b) A governmental entity may not enter into a contract under this section with (i) any company designated as a foreign terrorist organization pursuant to Presidential Executive Order 13224 or Section 302 of the federal Antiterrorism or Effective Death Penalty Act of 1996, (ii) any company under the control of a so-designated foreign terrorist organization, or (iii) any company controlled by a foreign person if to do so would violate any order of the Committee on Foreign Investment in the United States under the Foreign Investment and National Security Act of 2007, H.R. 566, 110th Cong. (2007), Public Law 110-49, 121 Stat. 246. These requirements also shall apply to any proposed transfer or assignment of any contract entered into under this section.

(2)(a) Every contract entered into by a governmental entity under this section (except for contracts entered into with another governmental entity or following termination of a predecessor contract entered into under this section), at a minimum, must provide for the design and construction of a new toll road or toll bridge project and may also provide for the financing, acquisition, lease, maintenance, and/or operation of a new toll road or toll bridge project.

(b) If a governmental entity enters into a contract with a company as authorized by this section, such governmental entity shall use a competitive procurement process that provides the best value for the governmental entity. The governmental entity may accept unsolicited proposals for a proposed new toll road or solicit proposals in accordance with this section.

(c) A governmental entity shall publish a request for competing proposals and qualifications in a newspaper having a general circulation within such governmental entity or, if the governmental entity is the Mississippi Transportation Commission, shall publish the request in a newspaper having a general circulation at the seat of government and, if the governmental entity has a website, shall post the request on such website. Such request shall include the criteria used to evaluate the proposals, the relative weight given to the criteria and a deadline by which proposals must be received. At a minimum, a proposal submitted in response to such request must contain:

(i) Information regarding the proposed project location, scope and limits;

(ii) Information regarding the company's qualifications, experience, technical competence, and capability to develop the project; and

(iii) A proposed financial plan for the proposed project that includes, at a minimum, the projected project costs, projected revenues and proposed sources of funds.

A governmental entity may interview a company submitting a solicited or unsolicited proposal. In evaluating such proposals, a governmental entity may solicit input from other sources regarding such proposals.

(d) The governmental entity shall rank each proposal based on the criteria described in the request for proposals and select the company whose proposal offers the best value to the governmental entity. The governmental entity may enter into discussions with the company whose proposal offers the best value. If at any point during the discussions it appears to the governmental entity that the highest ranking proposal will not provide the governmental entity with the overall best value, the governmental entity may enter into discussions with the company submitting the next highest ranking proposal.

(e) The governmental entity may withdraw a request for competing proposals and qualifications at any time and for any reason and may reject any one (1) or all proposals. In either case, the governmental entity may then publish a new request for competing proposals and qualifications. A governmental entity shall not be required to pay any company for the costs of preparing or submitting proposals.

(f) The governmental entity shall prescribe the general form of a contract authorized by this section and may include any matter the governmental entity considers advantageous to it. The governmental entity and the company shall negotiate the specific terms of the contract.

(g) Except as provided under this subsection (2), no such contract entered into hereunder shall be subject to the provisions of Section 65-1-8, Section 31-7-13 or any other public bid or public procurement laws of this state.

(h) The Transportation Commission shall evaluate each proposal based on the criteria established by the commission. The Transportation Commission shall approve or disapprove a proposal within ninety (90) days after receipt of the proposal. If the Transportation Commission needs additional information, it may delay approval for an additional sixty (60) days.

(i) Any right or interest arising under or as a result of any contract entered into under this section by a governmental entity with a company involving a franchise, license agreement, concession agreement, operating agreement, construction agreement, design agreement and/or any other similar contractual arrangement in connection with the financing, design, construction, acquisition, maintenance and/or operation of a toll road or toll bridge project shall not constitute any right, title or interest in land or other real property or real estate or in personal property within the meaning of Article 1, Chapter 35, Title 27, Mississippi Code of 1972, in the toll road or toll bridge project, including tollbooths and related toll facilities (including, but not limited to, land, pavement, drainage-related structures, and other infrastructure and property related thereto) in which a governmental entity is the title owner of such property and/or holder of easements, rights-of-way and/or other interests for such toll road or toll bridge project.

(3) Every contract entered into by a governmental entity under this section shall require a company to enter into bond and provide such security as the governmental entity determines may be necessary or advisable to ensure timely completion and proper execution and performance of the contract. The term of the contract shall not exceed fifty (50) years and shall not be extended or renewed. The governmental entities are authorized to acquire such property or interests in property as may be necessary, by gift, purchase or eminent domain, for construction and maintenance of the highways or bridges built pursuant to contracts entered into under this section. Upon expiration, termination or rescission of the contract, any and all rights and/or interests that the company may have in the land, infrastructure, facilities or other improvements to the property subject to contract shall terminate and automatically, by operation of law, be returned or conveyed to and vested in the State of Mississippi or the contracting governmental entity. Upon termination, expiration or rescission of the contract, the collection of tolls shall cease.

(4) The governmental entity having jurisdiction over the toll highway or bridge may, after notice and public hearing, establish, charge and collect motor vehicle operator tolls for use of the highway or bridge and its facilities. Alternatively, during the term of any contract entered into under this section,

the company may establish, charge and collect motor vehicle operators tolls for use of the highway or bridge and its facilities. The amount of such tolls, and any modification thereto, shall be subject to approval by the contracting governmental entity after notice and public hearing. All such contracts entered into with the Mississippi Transportation Commission may require a company to pay a percentage or other specified portion of all tolls collected to the Mississippi Department of Transportation. If bonds are issued pursuant to Section 65-43-13, then all such tolls paid to the department shall be deposited into the special bond sinking fund under Section 65-43-11, and may be expended only as authorized by the Legislature. If bonds are not issued pursuant to Section 65-43-13, then all such tolls paid to the department shall be deposited into the department's highway fund to be used by the department for the construction and maintenance of highways.

(5) If a toll road is a designated evacuation route and a declaration of a state of emergency is issued by the President of the United States or by the Governor, the collection of tolls shall cease until the termination of the state of emergency.

(6) All statutes of this state relating to vehicle and traffic regulation and control shall be applicable to motor vehicles operated upon highways and bridges constructed under this section and shall be enforceable by the Mississippi Department of Public Safety, the Mississippi Highway Safety Patrol or any other law enforcement agency having jurisdiction over such highways and bridges.

(7) The State of Mississippi, the Mississippi Transportation Commission, the Mississippi Department of Transportation, counties, municipalities or any other agency or political subdivision, or any officer or employee thereof, shall not be liable for any tortious act or omission arising out of the construction, maintenance or operation of any highway or bridge project under the provisions of this section where the act or omission occurs during the term of any such contract entered into by the Mississippi Transportation Commission or other governmental entity and a company.

SOURCES: Laws, 2007, ch. 582, § 2; Laws, 2008, 1st Ex Sess, ch. 44, § 2; Laws, 2012, ch. 537, § 2, eff from and after July 1, 2012.

Editor's Note — On July 18, 2007, the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965 to the addition of this section by Laws of 2007, ch. 582.

Amendment Notes — The 2012 amendment, in (1)(a), deleted "and along only" preceding "those locations" in the first sentence, and deleted the former second sentence, which read: "An existing road or any segment of an existing road shall not be part of a new toll road, and the reconstruction or repair of an existing road shall not be tolled."

Cross References — Exemption of governmental entity from liability for claims arising out of the construction, maintenance or operation of any roadway or bridge project entered into under the provisions of this section, see § 11-46-9.

Contracts entered into under the provisions of this section exempt from § 31-7-13 bidding requirements, see § 31-7-13.

Provisions of § 65-1-85 not to be construed to prohibit the commission from awarding or entering into contracts for design, construction and financing of toll roads and toll bridges as provided under this section, see § 65-1-85.

Provisions of § 65-3-1 prohibiting collection of tolls on state highways inapplicable to toll roads or toll bridges built or operated under the authority of this section, see § 65-3-1.

Federal Aspects — Section 302 of the federal Antiterrorism and Effective Death Penalty Act of 1996, referred to in (1)(b), is codified at 8 U.S.C.S. § 1189.

§ 65-43-4. Transportation Commission to report to legislature on performance of companies contracted with regarding construction, operation and maintenance of toll road or toll bridge projects.

On or before January 10 of each year the Mississippi Transportation Commission shall submit a detailed report to the Chairman of the Senate Highways and Transportation Committee and the Chairman of the House Transportation Committee describing and evaluating the financial and operational performance by a company with which the commission has contracted under Chapter 44, Laws of 2008, First Extraordinary Session, of the company's duties and responsibilities regarding the construction, operation and maintenance of a toll road or toll bridge project.

SOURCES: Laws, 2008, 1st Ex Sess, ch. 44, § 14, eff from and after passage (approved June 2, 2008.)

§ 65-43-5. Construction of Sections 65-43-1 and 65-43-3.

The powers conferred by Sections 65-43-1 and 65-43-3 shall be in addition to the powers conferred by any other law, general, special or local. Sections 65-43-1 and 65-43-3 shall be construed as an additional and alternative method of funding all or any portion of the purchasing, building, improving, owning or operating of roadways, highways or bridges under the jurisdiction of the Mississippi Transportation Commission, county boards of supervisors or municipal governing authorities, any provision of the laws of the state or any charter of any municipality to the contrary notwithstanding.

SOURCES: Laws, 2007, ch. 582, § 3, eff July 18, 2007 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the addition of this section.)

Editor's Note — On July 18, 2007, the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965 to the addition of this section by Laws of 2007, ch. 582.

Cross References — Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

§ 65-43-6. Penalties for failure or refusal to pay required toll on toll road or toll bridge facility.

Any driver of a vehicle who fails or refuses to pay a required toll on a toll road or toll bridge facility in the state shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than Five Hundred Dollars ($500.00), or imprisoned not more than six (6) months, or both. In addition, the court shall order a person convicted of violating this section, to make restitution to the toll facility operator in an amount equal to the dollar amount of the toll that such person was required but failed or refused to pay. Any sheriff, municipal police officer, State Highway Patrol officer, law enforcement officer of the Department of Public Safety or certified law enforcement officer of the Mississippi Department of Transportation may issue a traffic ticket for such violation within the limits of their respective jurisdictions in accordance with Section 63-9-21.

SOURCES: Laws, 2008, 1st Ex Sess, ch. 44, § 13, eff from and after passage (approved June 2, 2008.)

§ 65-43-7. Authorization of counties and municipalities to borrow money and issue bonds for projects authorized under this chapter; details of bonds; procedure.

(1) For the purpose of providing funds to defray the expenses of projects authorized pursuant to Sections 65-43-1 and 65-43-3, the board of supervisors of a county or the governing authorities of a municipality shall have the right to borrow money for the project, and to issue revenue bonds therefor in such principal amounts as the board of supervisors or governing authorities may determine to be necessary to provide sufficient funds to defray the expenses of projects authorized pursuant to Sections 65-43-1 and 65-43-3. The bonds shall be payable out of any revenues derived from the project, including grants or contributions from the federal government or other sources. Such bonds may be sold at public or private sale at not less than par and shall bear interest at a rate or rates not exceeding that allowed in Section 75-17-103. Any such bonds so issued shall not constitute a debt of the county, the municipality or any political subdivision of the county or the city within the meaning of any constitutional, statutory or charter restriction, limitation or provision. It shall be plainly stated on the face of each bond in substance that the bond has been issued pursuant to the authority granted in this section and that the taxing power of the county or municipality issuing the bond is not pledged to the payment of the bond or the interest on it and that the bond and the interest on it are payable solely from the revenues of the project for which the bond is issued.

(2) All bonds issued under the authority of this section shall bear such date or dates, shall be in such form or denomination, shall bear such rate of interest, and shall mature at such times as the county or municipality shall determine, but no bonds issued under the authority of this section shall mature

more than thirty (30) years from the date of the issuance thereof and none of the bonds shall be sold for less than par and accrued interest. All bonds shall be sold in the manner now provided by law for the sale of bonds without any restrictions, limitations, requirements or conditions applicable to the borrowing of such money and the issuance of such bonds which are not herein contained. The denomination, form, place of payment and other details of such bonds may be determined by resolution or order of the board of supervisors of a county or the governing authorities of a municipality, and shall be executed on behalf of the county or municipality as is now provided by law.

(3) Before issuing any bonds under the provisions of this section, the board of supervisors of the county or the governing authorities of the municipality shall, by resolution spread upon the minutes, declare its intention to issue such bonds for the purposes authorized by this section and shall state in the resolution the amount of bonds proposed to be issued and shall likewise fix in the resolution the date upon which the board of supervisors of the county or the governing authorities of the municipality proposes to direct the issuance of the bonds. Notice of such intention shall be published once a week for at least three (3) consecutive weeks in a newspaper published or having a general circulation in the county or the municipality, with the first publication of the notice to be made not less than twenty-one (21) days prior to the date fixed in the resolution for the issuance of the bonds and the last publication to be made not more than seven (7) days prior to such date. If, on or before the date specified in the resolution, twenty percent (20%) or fifteen hundred (1500), whichever is less, of the qualified electors of the county or municipality shall file a written protest against the issuance of the bonds, then an election upon the issuance of the bonds shall be called, and held, as provided in this section. If no such protest shall be filed, then the board of supervisors of the county or the governing authorities of the municipality may issue such bonds without an election on the question of the issuance of the bonds at any time within a period of two (2) years after the date specified in the resolution.

(4) If an election is called under the provisions of this section on the question of the issuance of bonds, the election shall be held, insofar as practicable, in the same manner as other elections are held in the county or municipality. At the election, all qualified electors of the county or municipality may vote and the ballots used in the election shall have printed thereon a brief statement of the amount and purposes of the proposed bond issue and the words "FOR THE BOND ISSUE" and the words "AGAINST THE BOND ISSUE," and the voters shall vote by placing a cross (X) or check mark (✓) opposite their choice on the proposition.

(5) When the results of any election provided for in this section shall have been canvassed by the election commissioners of the county or municipality and certified by them to the proper authorities, it shall be the duty of the board of supervisors of the county or the governing authorities of the municipality to determine and adjudicate whether or not a majority of the qualified electors who voted in the election voted in favor of the issuance of the bonds and unless a majority of the qualified electors who voted in the election voted in favor of

the issuance of the bonds, then the bonds shall not be issued. Should a majority of the qualified electors who vote in the election vote in favor of the bonds, the board of supervisors of the county or the governing authorities of the municipality may issue the bonds, either in whole or in part, within two (2) years from the date of such election, or within two (2) years after final favorable determination of any litigation affecting the issuance of such bonds at such time or times, and in such amount or amounts, not exceeding that specified in the notice of the election, as shall be deemed proper.

(6) This section, without reference to any other statute, shall be deemed to be full and complete authority for the issuance of bonds and borrowing of money as authorized in this section by counties or municipalities, and shall be construed as an additional and alternate method therefor. The bonds authorized by this section shall not constitute an indebtedness within the meaning of any constitutional or statutory limitation or restriction.

SOURCES: Laws, 2007, ch. 582, § 4, eff July 18, 2007 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the addition of this section.)

Editor's Note — On July 18, 2007, the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965 to the addition of this section by Laws of 2007, ch. 582.

§ 65-43-9. Toll Road Revenue Bond Fund.

(1)(a) A special fund, to be designated as the "Toll Road Revenue Bond Fund," is created within the State Treasury. The fund shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited into such fund.

(b) Monies deposited into the fund shall be disbursed, in the discretion of the Mississippi Transportation Commission, to pay the costs incurred in defraying the expenses of projects authorized pursuant to Sections 65-43-1 and 65-43-3.

(2) Amounts deposited into such special fund shall be disbursed to pay the expenses described in subsection (1) of this section. If any monies in the special fund are not used within six (6) years after the date the proceeds of the bonds authorized under Sections 65-43-9 through 65-43-39 are deposited into such fund, then the Mississippi Transportation Commission shall provide an accounting of such unused monies to the State Bond Commission. Promptly after the State Bond Commission has certified, by resolution duly adopted, that the projects for which the revenue bonds have been issued shall have been completed, abandoned or cannot be completed in a timely fashion, any amounts remaining in such special fund shall be applied to pay debt service on the bonds issued under Sections 65-43-9 through 65-43-39, in accordance with

the proceedings authorizing the issuance of such bonds and as directed by the State Bond Commission.

SOURCES: Laws, 2007, ch. 582, § 5, eff July 18, 2007 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the addition of this section.)

Editor's Note — On July 18, 2007, the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965 to the addition of this section by Laws of 2007, ch. 582.

§ 65-43-11. Special bond sinking fund.

For the purpose of providing for the payment of the principal of and interest upon bonds issued under the provisions of Sections 65-43-9 through 65-43-39, there is created a special bond sinking fund in the State Treasury. The special bond sinking fund shall consist of the monies required to be deposited into the fund under Section 65-43-3 and such other amounts as the Legislature may direct to be paid into the fund by appropriation or other authorization by the Legislature. Unexpended amounts remaining in the special bond sinking fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the special bond sinking fund shall be deposited into such sinking fund.

SOURCES: Laws, 2007, ch. 582, § 6, eff July 18, 2007 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the addition of this section.)

Editor's Note — On July 18, 2007, the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965 to the addition of this section by Laws of 2007, ch. 582.

§ 65-43-13. Bonds; resolution for issuance; disposition of bond sale proceeds and investment earnings generally.

(1) The State Bond Commission, at one time or from time to time, may declare by resolution the necessity for issuance of revenue bonds of the State of Mississippi for the purpose of providing funds to defray the expenses of projects authorized pursuant to Sections 65-43-1 and 65-43-3. Upon the adoption of a resolution by the Mississippi Transportation Commission, declaring the necessity for the issuance of the revenue bonds authorized by this section, the Mississippi Transportation Commission shall deliver a certified copy of its resolution or resolutions to the State Bond Commission. Upon receipt of such resolution, the State Bond Commission, in its discretion, may act as the issuing agent, prescribe the form of the bonds, advertise for and accept bids, issue and sell, at public or private sale, the bonds so authorized to be sold and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. Revenue bonds issued under this

section shall be in such principal amounts as the Mississippi Transportation Commission may determine to be necessary to provide sufficient funds to defray the expenses of projects authorized pursuant to Sections 65-43-1 and 65-43-3.

(2) Any investment earnings on amounts deposited into the special fund created in Section 65-43-9 shall be used to pay debt service on bonds issued under Sections 65-43-9 through 65-43-39, in accordance with the proceedings authorizing issuance of such bonds.

SOURCES: Laws, 2007, ch. 582, § 7, eff July 18, 2007 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the addition of this section.)

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in the section's subsection designators. The subsection number "(1)" was added at the beginning of the first paragraph. The Joint Committee ratified the correction at its August 5, 2008, meeting.

Editor's Note — On July 18, 2007, the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965 to the addition of this section by Laws of 2007, ch. 582.

§ 65-43-15. Bonds; payment of principal and interest; details.

The principal of and interest on the bonds authorized under Sections 65-43-9 through 65-43-39 shall be payable in the manner provided in this section. Such bonds shall bear such date or dates, be in such denomination or denominations, bear interest at such rate or rates (not to exceed the limits set forth in Section 75-17-103, Mississippi Code of 1972), be payable at such place or places within or without the State of Mississippi, shall mature absolutely at such time or times not to exceed thirty (30) years from date of issue, be redeemable before maturity at such time or times and upon such terms, with or without premium, shall bear such registration privileges, and shall be substantially in such form, all as shall be determined by resolution of the State Bond Commission.

SOURCES: Laws, 2007, ch. 582, § 8, eff July 18, 2007 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the addition of this section.)

Editor's Note — On July 18, 2007, the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965 to the addition of this section by Laws of 2007, ch. 582.

§ 65-43-17. Bonds; execution.

The bonds authorized by Sections 65-43-9 through 65-43-39 shall be signed by the Chairman of the State Bond Commission, or by his facsimile signature, and the official seal of the State Bond Commission shall be affixed thereto, attested by the secretary of the commission. The interest coupons, if any, to be attached to such bonds may be executed by the facsimile signatures of such officers. Whenever any such bonds shall have been signed by the officials designated to sign the bonds who were in office at the time of such signing but who may have ceased to be such officers before the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the signatures of such officers upon such bonds and coupons shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until their delivery to the purchaser, or had been in office on the date such bonds may bear. However, notwithstanding anything herein to the contrary, such bonds may be issued as provided in the Registered Bond Act of the State of Mississippi.

SOURCES: Laws, 2007, ch. 582, § 9, eff July 18, 2007 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the addition of this section.)

Editor's Note — On July 18, 2007, the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965 to the addition of this section by Laws of 2007, ch. 582.

Cross References — Registered Bond Act, see § 31-21-1 through 31-21-7.

§ 65-43-19. Bonds; negotiability.

All bonds and interest coupons issued under the provisions of Sections 65-43-9 through 65-43-39 have all the qualities and incidents of negotiable instruments under the provisions of the Uniform Commercial Code, and in exercising the powers granted by Sections 65-43-9 through 65-43-39, the State Bond Commission shall not be required to and need not comply with the provisions of the Uniform Commercial Code.

SOURCES: Laws, 2007, ch. 582, § 10, eff July 18, 2007 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the addition of this section.)

Editor's Note — On July 18, 2007, the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965 to the addition of this section by Laws of 2007, ch. 582.

§ 65-43-21. Bonds; issuance and sale; redemption.

The State Bond Commission shall act as the issuing agent for the bonds authorized under Sections 65-43-9 through 65-43-39, prescribe the form of the bonds, advertise for and accept bids, issue and sell, at public or private sale, the bonds so authorized to be sold, pay all fees and costs incurred in such issuance and sale, and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The State Bond Commission is authorized and empowered to pay the costs that are incident to the sale, issuance and delivery of the bonds authorized under Sections 65-43-9 through

65-43-39 from the proceeds derived from the sale of such bonds. The State Bond Commission shall sell such bonds on sealed bids at public or private sale, and for such price as it may determine to be for the best interest of the State of Mississippi, but no such sale shall be made at a price less than par plus accrued interest to the date of delivery of the bonds to the purchaser. All interest accruing on such bonds so issued shall be payable semiannually or annually; however, the first interest payment may be for any period of not more than one (1) year.

Notice of the sale of any such bonds shall be published at least one time, not less than ten (10) days before the date of sale, and shall be so published in one or more newspapers published or having a general circulation in the City of Jackson, Mississippi, and in one or more other newspapers or financial journals with a national circulation, to be selected by the State Bond Commission.

The State Bond Commission, when issuing any bonds under the authority of Sections 65-43-9 through 65-43-39, may provide that bonds, at the option of the State of Mississippi, may be called in for payment and redemption at the call price named therein and accrued interest on such date or dates named therein.

SOURCES: Laws, 2007, ch. 582, § 11, eff July 18, 2007 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the addition of this section.)

Editor's Note — On July 18, 2007, the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965 to the addition of this section by Laws of 2007, ch. 582.

§ 65-43-23. Bonds; nature; source of payment of principal and interest; applicability of debt limitation.

Bonds issued under the authority of Sections 65-43-9 through 65-43-39 shall be revenue bonds of the state, the principal of and interest on which shall be payable solely from the revenue from projects authorized under Section 65-43-1 or 65-43-3. The bonds shall never constitute an indebtedness of the state within the meaning of any state constitutional provision or statutory limitation, and shall never constitute or give rise to a pecuniary liability of the state, or a charge against its general credit or taxing powers, and such fact shall be plainly stated on the face of each such bond. The bonds shall not be considered when computing any limitation of indebtedness of the state. All bonds issued under the authority of Sections 65-43-9 through 65-43-39 and all interest coupons applicable thereto shall be construed to be negotiable instruments, despite the fact that they are payable solely from a specified source.

SOURCES: Laws, 2007, ch. 582, § 12, eff July 18, 2007 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the addition of this section.)

Editor's Note — On July 18, 2007, the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965 to the addition of this section by Laws of 2007, ch. 582.

§ 65-43-25. Bonds; disposition of proceeds.

Upon the issuance and sale of bonds under the provisions of Sections 65-43-9 through 65-43-39, the State Bond Commission shall transfer the proceeds of any such sale or sales to a special fund created in Section 65-43-9. The proceeds of such bonds shall be disbursed solely upon the order of the Mississippi Transportation Commission under such restrictions, if any, as may be contained in the resolution providing for the issuance of the bonds.

SOURCES: Laws, 2007, ch. 582, § 13, eff July 18, 2007 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the addition of this section.)

Editor's Note — On July 18, 2007, the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965 to the addition of this section by Laws of 2007, ch. 582.

§ 65-43-27. Bonds; conditions for issuance.

The bonds authorized under Sections 65-43-9 through 65-43-39 may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things which are specified or required by Sections 63-45-9 through 63-45-39. Any resolution providing for the issuance of bonds under the provisions of Sections 65-43-9 through 65-43-39 shall become effective immediately upon its adoption by the commission, and any such resolution may be adopted at any regular or special meeting of the commission by a majority of its members.

SOURCES: Laws, 2007, ch. 582, § 14, eff July 18, 2007 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the addition of this section.)

Editor's Note — On July 18, 2007, the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965 to the addition of this section by Laws of 2007, ch. 582.

§ 65-43-29. Bonds; validation.

The bonds authorized under the authority of Sections 65-43-9 through 65-43-39 may be validated in the Chancery Court of the First Judicial District of Hinds County, Mississippi, in the manner and with the force and effect provided by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The notice to taxpayers required by such statutes shall be published in a newspaper published or having a general circulation in the City of Jackson, Mississippi.

SOURCES: Laws, 2007, ch. 582, § 15, eff July 18, 2007 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the addition of this section.)

Editor's Note — On July 18, 2007, the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965 to the addition of this section by Laws of 2007, ch. 582.

§ 65-43-31. Bonds; protection and enforcement of rights of bondholders.

Any holder of bonds issued under the provisions of Sections 65-43-9 through 65-43-39 or of any of the interest coupons pertaining thereto may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights granted under Sections 65-43-9 through 65-43-39, or under such resolution, and may enforce and compel performance of all duties required by Sections 65-43-9 through 65-43-39 to be performed, in order to provide for the payment of bonds and interest thereon.

SOURCES: Laws, 2007, ch. 582, § 16, eff July 18, 2007 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the addition of this section.)

Editor's Note — On July 18, 2007, the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965 to the addition of this section by Laws of 2007, ch. 582.

§ 65-43-33. Bonds; legal investments and securities.

All bonds issued under the provisions of Sections 65-43-9 through 65-43-39 shall be legal investments for trustees and other fiduciaries, and for savings banks, trust companies and insurance companies organized under the laws of the State of Mississippi, and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and political subdivisions for the purpose of securing the deposit of public funds.

SOURCES: Laws, 2007, ch. 582, § 17, eff July 18, 2007 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the addition of this section.)

Editor's Note — On July 18, 2007, the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965 to the addition of this section by Laws of 2007, ch. 582.

§ 65-43-35. Bonds; exemption from taxation.

Bonds issued under the provisions of Sections 65-43-9 through 65-43-39 and income therefrom shall be exempt from all taxation in the State of Mississippi.

SOURCES: Laws, 2007, ch. 582, § 18, eff July 18, 2007 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the addition of this section.)

Editor's Note — On July 18, 2007, the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965 to the addition of this section by Laws of 2007, ch. 582.

§ 65-43-37. Bonds; use of proceeds.

The proceeds of the bonds issued under Sections 65-43-9 through 65-43-39 shall be used solely for the purposes provided in Sections 65-43-9 through 65-43-39, including the costs incident to the issuance and sale of such bonds.

SOURCES: Laws, 2007, ch. 582, § 19, eff July 18, 2007 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the addition of this section.)

Editor's Note — On July 18, 2007, the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965 to the addition of this section by Laws of 2007, ch. 582.

§ 65-43-39. Bonds; issuance of warrants for payment.

The State Treasurer is authorized, without further process of law, to certify to the Department of Finance and Administration the necessity for warrants, and the Department of Finance and Administration is authorized and directed to issue such warrants, in such amounts as may be necessary to pay when due the principal of, premium, if any, and interest on, or the accreted value of, all bonds issued under Sections 65-43-9 through 65-43-39; and the State Treasurer shall forward the necessary amount to the designated place or places of payment of such bonds in ample time to discharge such bonds, or the interest thereon, on the due dates thereof.

SOURCES: Laws, 2007, ch. 582, § 20, eff July 18, 2007 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the addition of this section.)

Editor's Note — On July 18, 2007, the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965 to the addition of this section by Laws of 2007, ch. 582.

TOLL EVASION

SEC.
65-43-71. Definitions.
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65-43-75. Written notice of toll evasion penalty to accompany notice of toll evasion violation; penalties.
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65-43-85. Contracts with collection agencies to collect unpaid toll evasion penalties, fees and charges authorized.

§ 65-43-71. Definitions.

The following words and phrases shall have the meanings ascribed herein unless the context clearly indicates otherwise, as used in Sections 65-43-71 through 65-43-85 and Section 65-43-6:

(a) "Toll facility operator" means any private company contracting with a governmental entity to collect tolls or fees for the use of any toll road or toll bridge as authorized under Section 65-43-3;

(b) "Processing agency" means a governmental entity, or a toll facility operator designated by any governmental entity, responsible for the processing of the notices of toll evasions and notices of delinquent toll evasions and penalties. A processing agency may include a public agency or private vendor with which any governmental entity contracts for the processing of notices of toll evasions and notices of delinquent toll evasions;

(c) "Toll facility" means any road or bridge for which tolls or fees are charged for the use thereof.

SOURCES: Laws, 2008, 1st Ex Sess, ch. 44, § 5, eff from and after passage (approved June 2, 2008.)

§ 65-43-73. Use of toll facility without payment of tolls prohibited; notice of toll evasion violation; contents of notice; timing of notice.

(1) A person may not use any toll facility without payment of tolls, except as specifically provided by statute, ordinance, regulation or rule of a governing entity.

(2) If a vehicle is found by automated devices, visual observation, or otherwise to have evaded tolls on any toll facility, the processing agency shall, within thirty (30) days of the violation, forward to the registered owner of the vehicle involved in the violation, by certified mail, return receipt requested, or by personal delivery, a notice of toll evasion violation setting forth the violation, including reference to the statute, ordinance, regulation or rule violated, the approximate time and location of the violation and the amount of the toll owed by the violator. Included with the notice of toll evasion violation shall be an affidavit of nonliability that complies with the requirements of Section 65-43-81. In the case of joint ownership of a motor vehicle, the notice must be mailed to the first name appearing on the registration, unless the first name is a business organization, in which case the second name appearing on the registration may be used. Mailing the notice to the address provided for notice or personal delivery constitutes legal notification to the violator. If

accurate information concerning the identity and address of the registered owner of the vehicle is not available to the processing agency within thirty (30) days of the violation, the processing agency shall have an additional forty-five (45) calendar days to obtain such information and forward the notice of toll evasion violation. If after ninety (90) calendar days of the violation the processing agency has not obtained accurate information concerning the identity and address of the registered owner of the vehicle, the processing agency may publish the notice of the toll evasion for two (2) weeks in a newspaper having general circulation in the county of the registered owner's last known residence. This publication shall constitute legal notification to the violator. The notice of toll evasion violation shall also set forth the following:

(a) The vehicle license plate number;

(b) If practicable, the registration expiration date and the make of the vehicle;

(c) A clear and concise explanation of the procedures for contesting the violation and appealing an adverse decision.

(3) A violation of subsection (1) of this section is an infraction subject to a penalty established pursuant to Section 65-43-75. The collection of civil penalties shall be governed by the civil administrative procedures set forth in Section 65-43-77.

SOURCES: Laws, 2008, 1st Ex Sess, ch. 44, § 6, eff from and after passage (approved June 2, 2008.)

§ 65-43-75. Written notice of toll evasion penalty to accompany notice of toll evasion violation; penalties.

(1) The notice of toll evasion violation shall be accompanied by a written notice of the toll evasion penalty due for that violation, the address of the person authorized to receive payment of the toll evasion penalty, an affidavit of nonliability and a statement that payment of the toll evasion penalty for the toll evasion violation may be sent through the mail.

(2) The schedule of toll evasion penalties for toll evasion violations shall be established by the governmental entity having jurisdiction over the toll road, but shall not exceed the amount of the unpaid toll plus One Hundred Dollars ($100.00) per violation.

(3) Toll evasion penalties under this section may be collected as civil penalties.

(4) If the amount of the unpaid toll, along with any applicable toll evasion penalty, is received by the person authorized to receive the deposit of these fees and there is no contest as to that toll evasion violation pursuant to Sections 65-43-71 through 65-43-83, the proceedings shall terminate.

(5) The amount of the unpaid toll, and any applicable penalties, shall be retained by or remitted to the governmental entity having jurisdiction over the toll road.

SOURCES: **Laws, 2008, 1st Ex Sess, ch. 44, § 7, eff from and after passage (approved June 2, 2008.)**

§ 65-43-77. Establishment of system of civil administrative adjudication; administrative fees and charges.

The governmental entity shall establish a system of civil administrative adjudication to adjudicate the contest of any alleged instances of a vehicle's operation on a toll facility without the required toll having been paid, such system shall include a schedule of administrative fees and charges due in addition to the unpaid toll and/or penalty.

SOURCES: **Laws, 2008, 1st Ex Sess, ch. 44, § 8, eff from and after passage (approved June 2, 2008.)**

§ 65-43-79. Appeal from decision of adjudicative process.

(1) Any person aggrieved by a final decision of the adjudicative process set forth in Section 65-43-77, may appeal such decision within ten (10) days from the date of the postmark appearing on the notice of final decision mailed to the contestant. The appeal shall be initiated by the filing of a written notice of appeal accompanied by a bill of exceptions which shall embody the facts, order and decision of the adjudicative body and which shall be signed by the party executing the final decision appealed from. The contestant shall file the notice of appeal and bill of exceptions in the circuit court of the county in which the alleged violation took place and the court shall hear and determine the same on the case as presented by the bill of exceptions as an appellate court and shall affirm or reverse the final decision. A copy of that notice and bill of exceptions must be provided to all parties or their attorneys of record and the lower authority whose order or judgment is being appealed. A certificate of service must accompany the written notice of appeal. If the decision be reversed, the circuit court shall render such order or judgment and certify same to that body; and the costs shall be awarded as in other cases. The contents of the adjudicative body's official file in the case, including a copy of the notice of toll evasion violation, shall be made a part of the record on appeal and shall constitute prima facie evidence of the facts stated therein. A copy of the written notice of appeal shall be served by the contestant by certified mail, return receipt requested, upon the adjudicative body by service upon the party executing the final decision.

(2) If no written notice of appeal of the final decision is filed within the period set forth in subsection (1) of this section, the decision shall be deemed final.

(3) If the toll evasion penalty, along with the amount of the unpaid toll, have not been paid and the decision resulting from the judicial review of the final decision is adverse to the contestant, the processing agency may, promptly after the decision becomes final, proceed to collect the penalty.

SOURCES: Laws, 2008, 1st Ex Sess, ch. 44, § 9, eff from and after passage (approved June 2, 2008.)

§ 65-43-81. Final notice of toll evasion; delivery; contents of notice; consequence of failure to pay toll evasion penalty.

(1) If the payment of the amount of the unpaid toll, and any applicable toll evasion penalty, is not received by the person authorized to receive payment of these fees by the time and date fixed for appearance on the notice of toll evasion violation, the processing agency shall deliver to the registered owner a final notice of toll evasion violation.

(2) Delivery of a final notice of toll evasion violation under this section shall be made by certified mail, return receipt requested, addressed to the registered owner, or by personal delivery. If delivery by certified mail or personal delivery is refused by the registered owner, then the processing agency may publish the notice of delinquent toll evasion for two (2) weeks in a newspaper having a general circulation in the county of the registered owner's last known residence.

(3) The final notice of toll evasion violation shall contain the information specified in Section 65-43-73, and shall also contain a notice to the registered owner that he must either:

(a) Pay the amount of the unpaid toll, and any applicable penalty, or

(b) Provide proof of payment of the unpaid toll, and any applicable penalty or an affidavit of nonliability.

(4) If the registered owner fails to pay the toll evasion penalty, as required, the registered owner shall be deemed responsible for the violation and the amount of the unpaid toll and any administrative fees or charges which shall be due to the governmental entity by the registered owner.

SOURCES: Laws, 2008, 1st Ex Sess, ch. 44, § 10, eff from and after passage (approved June 2, 2008.)

§ 65-43-83. Effect of return of affidavit of nonliability.

(1) If the affidavit of nonliability is returned to the governmental entity within thirty (30) days of the mailing of the notice of toll evasion violation, together with the proof of a written rental agreement or lease between a bona fide renting or leasing company and its customer which identifies the rentee or lessee and provides the driver's license number, name, and address of the rentee or lessee, the processing agency shall mail, by certified mail, return receipt requested, to the rentee or lessee identified in the affidavit of nonliability a final notice of toll evasion violation.

(2) If the affidavit of nonliability is returned with evidence that the registered owner served has made a bona fide sale or transfer of the vehicle and has delivered possession thereof to the purchaser prior to the date of the alleged violation, the processing agency shall cancel the notice of toll evasion violation with respect to that registered owner and the processing agency shall mail, by certified mail, return receipt requested, to the purchaser identified in

the affidavit of nonliability a final notice of toll evasion violation. If payment is not received within fifteen (15) days of the mailing of the final notice of toll evasion violation, the processing agency may proceed against the purchaser identified pursuant to Section 65-43-73.

SOURCES: Laws, 2008, 1st Ex Sess, ch. 44, § 11, eff from and after passage (approved June 2, 2008.)

§ 65-43-85. Contracts with collection agencies to collect unpaid toll evasion penalties, fees and charges authorized.

The processing agency may contract with a collection agency to collect unpaid toll evasion penalties, fees and charges.

SOURCES: Laws, 2008, 1st Ex Sess, ch. 44, § 12, eff from and after passage (approved June 2, 2008.)

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